A.P. POLICE
INVESTIGATION
MANUAL

Part - I

Volume - IIA

GOVERNMENT OF ANDHRA PRADESH

Police Department

Amaravathi - 522 020

Implementation of Telugu Language in all proceedings including Courts vide G.O.Ms.No.485 Home (Courts-B) Department dt: 29.03.1974.

Implementation of Telugu language in maintaining Police Station records vide G.O.Ms.No.1515, General Administration (OL & SR-II) Department, dt: 22.12.1966.

NANDURI SAMBASIVA RAO, IPS,
Director General of Police,
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Dt : 16.03.2017.

FOREWORD

The Andhra Pradesh Police Manual in four volumes approved by the Government on 14th Feb, 2017 enables all the Police Officers to perform their tasks with clarity and precision. The revision was taken up on the orders of the Government of AP by Sri S. Umapathi, IPS (Retd.), IGP with the help of Sri K. Sudhakar, SP (NC) (retired) in a meticulous manner incorporating all the new Acts, Rules, guidelines, MHA Circulars, Apex Court directions and other Government orders.

The four volumes for convenience are named as :-

1. AP Police Administrative Manual (Part-I, Vol - I)
2. AP Police Investigation Manual (Part-I, Vol - IIA)
3. AP Police Station House Management Manual (Part-I, Vol - IIB) and
4. AP Police Specialised Units Manual (Part-I, Vol - III)

The thrust has been to ensure proper functioning of all Police Stations, Circles, Sub-Divisions, Districts, Units and Commissionerates with certain Key Performance Areas (KPAs) and measurable indicators. Standard Operating Procedures (SOPs) in respect of important crimes enables Officers not to miss any legal step in the investigation of cases for improving our conviction rate. Detailed Cyber Crime investigation procedures mentioned in the Investigation Manual is a ready reckoner for all officers which is extremely useful in this Cyber era. Every SHO should learn the nomenclature and the way to investigate Cyber Crime, SC/ST Crime, Juvenile Crime and other Specialized Crimes and the way to process file for payment of victim-witness compensation under various schemes of the Government for rending speedy Justice.

The Chapter on Police Welfare, new Chapters on Police Computers and Standardization, Safe City Concept, Road Safety and District Police Office do spell out the requisite mandate for the officers and staff.

I am sure that the new Manual of 1st Edition will enhance our image with the desired pro-people, pro-women and pro-children approach in the service delivery.

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FOREWORD

The AP Police Manual is the main reference book as well as a valuable guide for all Police officers, for their day to day work. It is a compilation of all new Acts, recent legislations, amendments, procedures, guide lines and circulars which are required for proper Justice delivery, for prevention, detection and investigation of crime, maintenance of public order etc.

The existing Police manual was published in February, 2002 and ever since, several Cr.PC, IPC, Evidence Act amendments have come into force including new Acts such as POCSO Act 2012, SC/ST Amendment Act, 2015, Juvenile Justice (CPC) Act, 2015, amendments to Unlawful Activities (Prevention) Act in 2014, Information Technology Act, 2008 and plethora of other amendments came into effect necessitating a revision. Several new technologies, Cyber forensic laboratories, Cyber Crime investigation tools, social media monitoring tools, etc., have become available to the Police Officers. The Police is facing new economic crimes like multi-level marketing, FICN cases, Organized criminal activities like Human Trafficking, Drug Trafficking, Cyber Crimes and transnational terrorism. All this resulted in issuing several orders by the Government and by the Chief Office from time to time which need to be codified.

The earlier revision of APPM was carried out by Sri. K.Vijaya Rama Rao, IPS (Retd), former Director CBI, New Delhi, which was a revision of 1912 Madras Police Manual. A need was felt to revise the APPM incorporating all the new and amended legal provisions, Government of India advisories, State Government G.Os, Chief Office Circulars, other related Circulars of Accounts Branch, Chairman SLPRB, etc. The Government of AP accordingly entrusted the onerous task of revising the Police Manual to an experienced, law knowing Police Officer Sri S.Umapathi, IPS (Retd.) former IGP, CID AP. He redrafted the entire Manual incorporating the latest legislations, Acts, Circulars, Advisories and Government Orders, new proformas, District profiles with new chapters like PCS & S, Road Safety, Safe City and District Police Office. The Cyber Crimes, Standard Operation Procedures on heinous crimes, relevant Supreme Court Judgments have been put in place for ready reference.

For the convenience of users, the Manual is being published in four volumes viz :

1) The AP Police Administrative Manual dealing with Police Structure, Administration, key performance areas of Officers, disciplinary matters, recruitment and training.
2) The AP Police Investigation manual (Called APPM Part I, Vol -II (A) elaborates FIR to Charge sheet to Trial Monitoring, including Standard Operation Procedures.
3) The AP Police Station House Management Manual called APPM Part-I, Vol-II (B) containing Station House routine, service delivery etc.
4) The AP Police Specialized Units manual (APPM Part I Vol.III) revised with four new Chapters.

For this phenomenal work , the Police Department is greatly indebted to Sri.S.Umapathi, IPS (Retd) for undertaking this task and to Sri K.Sudhakar SP (NC) (Retd) who assisted him from the beginning without expecting any remuneration. I also place on record the contribution made by Sri. U. Rama Mohan Rao, SP (NC) Cyber PS in drafting a detailed SOP on Cyber Crimes and investigation techniques. I place on record the role of S/Sri M. Saravan Kumar, Chief Legal Advisor, CID AP, C.C.Subramanyam, Director of Prosecution of Government of AP and M.Naga Raghu, Chief Legal Advisor, AP DGP Office for their valuable inputs. The role of S/ Sri S.Sesibhushana Rao, SP (NC) Intl., Department, Md. Riyaz, ID Assistant, Intl. Dept., Smt. G. Usha Rani, Data Entry Operator, O/o DGP, AP and Sri P.Charvaka, ' page maker' and M. Srinivas of Sri Lakshmi Prasanna Printers, Hyderabad is worth mentioning for their contribution in making the dream come true. I would like to thank the SsP / CsP and ADGPs who have contributed in providing timely in puts in updating the manual.

I am sure that the newly revised Manual will prove to be a useful ready reference book for the Police Officers, prosecutors and for other Departments affiliated to criminal Justice system.

J.V.Ramudu, IPS, 16/7
Director General of Police,
Andhra Pradesh.

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Revised Andhra Pradesh Police Manual– Approved – Orders – Issued.

HOME (LEGAL.II) DEPARTMENT

G.O.MS.No. 19 Dated: 14-02-2017

Read the following :-

1. G.O.Ms.No.308, Home (Police.D) Department, dated :09.02.1960.
2. G.O.Ms.No.201, Home (Police.C) Department, dated :08.09.2001
3. From the Director General of Police, Andhra Pradesh, Hyderabad, Lr.No.2380/C3/2016, dated: 16.07.2016.

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ORDER :-

The Revised Andhra Pradesh Police Manual submitted by the Director General of Police, Andhra Pradesh, Hyderabad in four volumes i.e. Volume-I, Volume-II(A), Volume II (B) and Volume III, containing Annexures and Forms, in the letter 3rd read above, is approved subject to the following conditions:-

i. The Manual does not supersede any statutory rules, Service Rules, regulations and other orders issued by the Government from time to time and if there is any contradictions or conflict, the latter will prevail.

ii. The Manual does not vest Police officers with any powers of arrest, detention, investigation of crime etc. not specifically conferred by the Criminal Procedure Code, Indian Penal Code or other central or State laws on the subject for the time being in force.

iii. The Manual envisages only guidelines, procedures in accordance with the provisions of laws, Acts and Rules for all Police officers.

iv. No financial or other claim liability will be accepted on the authority of the Manual.

v. No posts of any category in Andhra Pradesh Police Service and Andhra Pradesh Police Sub-Ordinate Service will be sanctioned / created on the strength of this manual. The Director General of Police will submit detailed proposals for the purpose, if any required separately for approval of Government.

2. The Director General of Police, Andhra Pradesh, Hyderabad will get the Manual printed with private printers following due procedure as the Director General of Police office press does not have requisite technology and capacity as stated by the DGP. The Printed Manual shall be distributed to all the concerned up to Police Station level & with 50 spare copies for Government reference.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.R. ANURADHA

PRINCIPAL SECRETARY TO
GOVERNMENT

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Police – Revision and up-dation of Andhra Pradesh Police Manual (Volume – I and II Old) by the Director General and Inspector General of Police – Revised Andhra Pradesh Police Manual – Approved – Orders – Issued.

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v. No posts of any category in Andhra Pradesh Police Service and Andhra Pradesh Police Sub-Ordinate Service will be sanctioned/ created on the strength of this manual. The Director General and Inspector General of Police will submit detailed proposals for the purpose, if any required separately for approval of Government.

2. The Director General and Inspector General of Police, Andhra Pradesh, Hyderabad will get the Manual printed in sufficient number of copies in Inspector General of Police Press and distribute to all the concerned upto Police Station level with 50 spare copies for Government reference. Spare copies may also be made available for sale to public and others concerned by prescribing a reasonable and affordable price.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

BHARATH CHANDRA,

PRINCIPAL SECRETARY TO GOVERNMENT

To

The Director General and Inspector General of Police,

Andhra Pradesh, Hyderabad.

/// FORWARDED: BY ORDER ///

Sd/-

SECTION OFFICER

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

BOOKS AND PUBLICATIONS – THE ANDHRA PRADESH POLICE MANUAL COMPILED BY INSPECTOR-GENERAL OF Police – APPROVED SUBJECT TO CERTAIN CONDITIONS.

(G.O Ms. No. 308, Home (Police-D) Department, dated, 9th February, 1960.)

Read the following :

From the Inspector General of Police, Letters Rc. No. 496/A/58, dated: 09-07-1959, 21-10-1959 and 18-12-1959.

* * *

ORDER:

The draft Andhra Pradesh Police Manual (Parts I and II) submitted by the Inspector General of Police, with the correspondence cited, is approved subject to the following conditions:

1. The Manual does not supersede any statutory rule, service rules or other orders issued by the Government from time to time, and if there is any conflict, the matter will prevail:
2. The Manual does not vest Police Officers with any powers of arrest, detention, investigation of crimes, etc., not specially conferred by the Cr.PC., IPC or other Central or State laws on the subject; and
3. no financial or other claim or liability can be accepted on the authority of the manual.

2. The Inspector – General of Police will arrange to get the Manual printed by the Director of Government Printing and distribute copies to all concerned, with twelve spare copies for Government reference.

(By Order and in the name of the Governor)

V.RAJESWAR RAO
Secretary To Government

To
The Inspector-General of Police, Hyderabad
/True Copy/

ABBREVATIONS

Short Form	Full Form
ACB	Anti-Corruption Bureau
ACP	Assistant Commissioner of Police
ACR	Annual Confidential Report
Addl. PP	Additional Public Prosecutor
Addl.CP	Additional Commissioner of Police
Addl.DM	Additional District Magistrate
Addl. SP	Additional Superintendent of Police
AD	Assistant Director
ADJ	Additional District Judge
ADGP	Additional Director General of Police
AG	Advocate General
AHTU	Anti Human Trafficking Unit
ALA	Assistant Legal Advisor
ANPR	Automatic Number Plate Recognition
AO	Administration Officer / Accounts Officer
AOP	Armed Out Post
APAT	Andhra Pradesh Administrative Tribunal
APEPDCL	AP Eastern Power Distribution Company (HQ Vishakhapatnam)
APP	Assistant Public Prosecutor
APPA	Andhra Pradesh Police Academy
APPM	Andhra Pradesh Police Manual
APPS	Andhra Pradesh Police Service
APPSC	Andhra Pradesh Public Service Commission
APSLSA	Andhra Pradesh State Legal Services Authority
APSP	Andhra Pradesh Special Police
APSPDCL	AP Southern Power Distribution Company (HQ Tirupathi)
ASC	Anti Sabotage Check
ASL	Advance Security Liason
ATP	Ananthapuramu
BSF	Border Security Force
BOT	Build Operate and Transfer
BP Car	Bullet Proof Car
BPR & D	Bureau of Police Research and Development
BTC	Battalion Training Centre
CAT	Central Administrative Tribunal
CJM	Chief Judicial Magistrate
CIO	Central Intelligence Officer

CL	Casual Leave
CLA	Chief Legal Advisor
CM	Chief Minister
CPRO	Chief Public Relation Officer
CS & VO	Chief Security and Vigilance Officer
CSO	Chief Security Officer
CBI	Central Bureau of Investigation
CC No.	Court Calendar Number
CCF	Chief Conservator of Forests
CCRB	City Crime Records Bureau
CCS	Central Crime Station
CCTNS	Crime Criminal Tracking Network and Services
CCTV	Close Circuit Tele Vision
CD	Case Diary
CD	Compact Disc (Computer language)
CDTS	Central Detective Training School
CHIO	Chief Immigration Officer
CI	Circle inspector of Police
CICL	Child In Conflict with Law
CID	Crime Investigation Department
CISF	Central Industrial Security Force
CMT	Commandant
CNCP	Child in Need of Care and Protection
CP	Commissioner of Police
Cr.PC.	Criminal Procedure Code,
CRDA	Capital Region Development Authority
Crl. R.P.	Criminal Revision Petition (Dealt by P.P High Court)
CRPF (COBRA)	Central Reserve Protection Force (Commando Battalion for Resolute Action)
CRPF	Central Reserve Police Force
CRZ	Coastal Regulation Zone
CSPS	Coastal Security Police Station
CTC	City Training Centre
CTR	Chittoor
CVC	Command Viewing Center
	Chief Vigilance Commissioner
CWC	Child Welfare Committee

CWO	Child Welfare Officer
CWPO	Child Welfare Police Officer
DA	Dearness Allowance
DAR	District Armed Reserve
DCP	Deputy Commissioner of Police
DCPO	District Child Protection Officer
DCPU	District Child Protection Unit
DCRB	District Crime Records Bureau
DC	Dossier Criminal
DFO	Divisional Fire Officer
DFO	Divisional Forest Officer
DFMD	Door Frame Metal Detector
DFPU	District Finger Print Unit
DGP	Director General of Police
DIG	Deputy Inspector General of Police
DIR	Domestic Incident Report (Filed under PW Domestic violence Act)
DJ	District Judge
DLSA	District Legal Service Authority
DM	District Magistrate (District Collector with magesterial powers)
DNA	De-oxyribo Nucleic Acid
DoP	Director of Prosecutions
DPS	Detective Police Station
Dy SP	Deputy Superintendent of Police
DTC	District Training Centre
DTRB	District Traffic Records Bureau
DVD	Digital Video Disc.
DVR	Digital Video Recorder
ECIR	Enforcement Crime Information Report (filed by Enforcement Directorate)
ECNR	Emigration Check Not Required
E-COPS	Electronic Computer Operations of Police Services
EG	East Godavari
EL	Earned Leave
FICN	Fake Indian Currency Note
F.I.R	First Information Report
FIU	Financial Investigation Unit (New Delhi)

F.R	Final Report (Submitted Under sec. 173 Cr.PC)
FP	Finger Print / Foot Print
FRO	Foreigners Registration Officer (SP or CP)
FRRO	Foreigners Regional Registration Officer
GP	Government Pleader
GPF	General Provident Fund
GRP	Government Railway Police
GTR	Guntur
GVMC	Greater Visakha Municipal Corporation
HHMD	Hand Held Metal Detectors
IAS	Indian Administrative Service
IB	Intelligence Bureau
IFoS	Indian Forest Service
IFS	Indian Foreign Service
IGP	Inspector General of Police
Int.	Intelligence
INTERNET	INTERconnected computer NETwork
IPS	Indian Police Service
IRBN,	Integrated Reserve Battalion
IRF	Interim Relief Fund
IT Department	Income Tax Department
J J (CPC) Act	Juvenile Justice (Care and Protection of Children) Act
JD IMM	Joint Director Immigration (New Delhi)
Jt. CP	Joint Commissioner of Police
KD	Known Depredator
KDP	Kadapa
KI	Krishna
KRNL	Kurnool
L & O	Law and Order
LOC	Look Out Circular (Issue by JD Immigration)
MACT	Motor Vehicle Accidents Claims Tribunal
MC	Medical Certificate
MC No.	Miscellaneous Case No. (of executive magistrate such as RDO/ MRO Offices)
MCR	Monthly Crime Report
MCS	Money Circulation Scheme
MEA	Ministry of External Affairs
MHA	Ministry of Home Affairs

MJp	Medical Jurisprudence
MLA	Member of Legislative Assembly
MLC	Member of Legislative Council
	Medico Legal Case
MLM	Multi - Level Marketing
MMS	Multimedia Messaging Service
MO	Modus Operandi / Medical Officer
MOEF	Ministry of Environment and Forest
MOU	Memorandum of Understanding
MP	Member of Parliament
MR	Monthly Report
MSJ	Metropolitan Sessions Judge
MTO	Motor Transport Officer
MVI	Motor Vehicle Inspector
NBW	Non Bailable Warrant
NCB	Narcotics Control Bureau
NCC	National Cadet Corps
NCRB	National Crime Record Bureau
NDPS	Narcotic Drugs and Psychotropic Substances
NDRF	National Disaster Response Force
NGO	Non Government Organisation
	Non Gazetted Officer
NHRC	National Human Rights Commission
NIA	National Investigation Agency
NLR	Nellore
NSG	National Security Guards
OCTOPUS	Organization for Counter Terrorist Operations
OE	Oral Enquiries
OFC	Optical Fiber Cable
OP	Out Post
OSD	Officer on Special Duty
PS	Police Station
PESO	Petroleum, Explosives and Safety Organization
PGOE	Protector General of Emigrants
PKM	Prakasham
PM	Prime Minister
PME	Post Mortem Examination
PMG	Police Medal for Gallantry

PO	Protection Officer (under Domestic Violence Act)
POCSO ACT	Protection of Children from Sexual Offences Act.
POE	Protector of Emigrants
PP	Public Prosecutor
PPM	President's Police Medal
PRC No.	Pre Registered Case Number
PRC	Police Research Centre
PRO	Public Relations Officer
PSO	Police Standing Order
PTC	Police Training College
PTO	Police Transport Organization
PTS	Police Training School
PT Warrant	Prisioners Transfer Warrant
R.O.	Relationship Officer
RAF	Rapid Action Force
RBI	Reserve Bank of India
RCN	Regular Criminal Number
RCN	Red Corner Notice (issued by interpol)
RC No.	Refer Cases No. (courts)
RCRB	Railway Crime Records Bureau
RI	Rigorous Imprisonment / Reserve Inspector
RJY	Rajahmundry
RPF	Railway Protection Force
S.I.T	Special Investigation Team
SAR	Special Armed Reserve
SC No	Sessions Case Number
SCT	Stipendary Cadet Training
SDM	Sub Divisional-Magistrate (Revenue Divisional Officers)
SDPO	Sub Divisional Police Officer
SEBI	Securities and Exchange Board of India
SHRC	State Human Rights Commission
SI	Sub Inspector / Simple Imprisonment
SJPU	Special Juvenile Police Unit
SKLM	Srikakulam
SLL	Special and Local Laws
SLPRB	State Level PoliceRecruitment Board
SMS	Short Message Service

SoC	Scene of Crime
SOP	Standard Operations Procedure
SP	Superintendent of Police
SPF	Special Protection Force
SPG	Special Protection Group
SRP	Superintendent of Railway Police
STR	Suspecious Transaction Report
SSA	Sarva Siksha Abhiyan
SVPNPA	Sardar Vallabhai Patel National Police Academy
SWAN	State Wide Area Network
TA	Travelling Allowance
TP & HP	Traffic Planning and High way Patrolling
TRANSCO	Transmission Company (APSEB)
TRG	Training
TTD	Tirumala Tirupathi Devasthanam
UT	Union Territory
u/s	Under Section
UPSC	Union Public Service Commission
V&E	Vigilance and Enforcement
VC	Vice Chairman / Vice-Chancellor (of an University)
VIP	Very Important Person
VR	Volantery Retirement
VSF	Victim Support Fund
VSP	Vishakhapatnam
VVIP	Very Very Important Person
VZA	Vijayawada
VZM	Vizianagaram
WCWD	Women and Child Welfare Department
WG	West Godavari
WP	Writ Petition
	(dealt by Government Pleader Home - High Court
WPC	Women Protection Cell / Women Police Constable
WPMP	Writ Petition Miscellaneous Petition
	(filed to obtain interim orders)
WPS	Women Police Station
WWW	World Wide Web

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A.P. Police - Crime - Detection - Investigation and Prosecution

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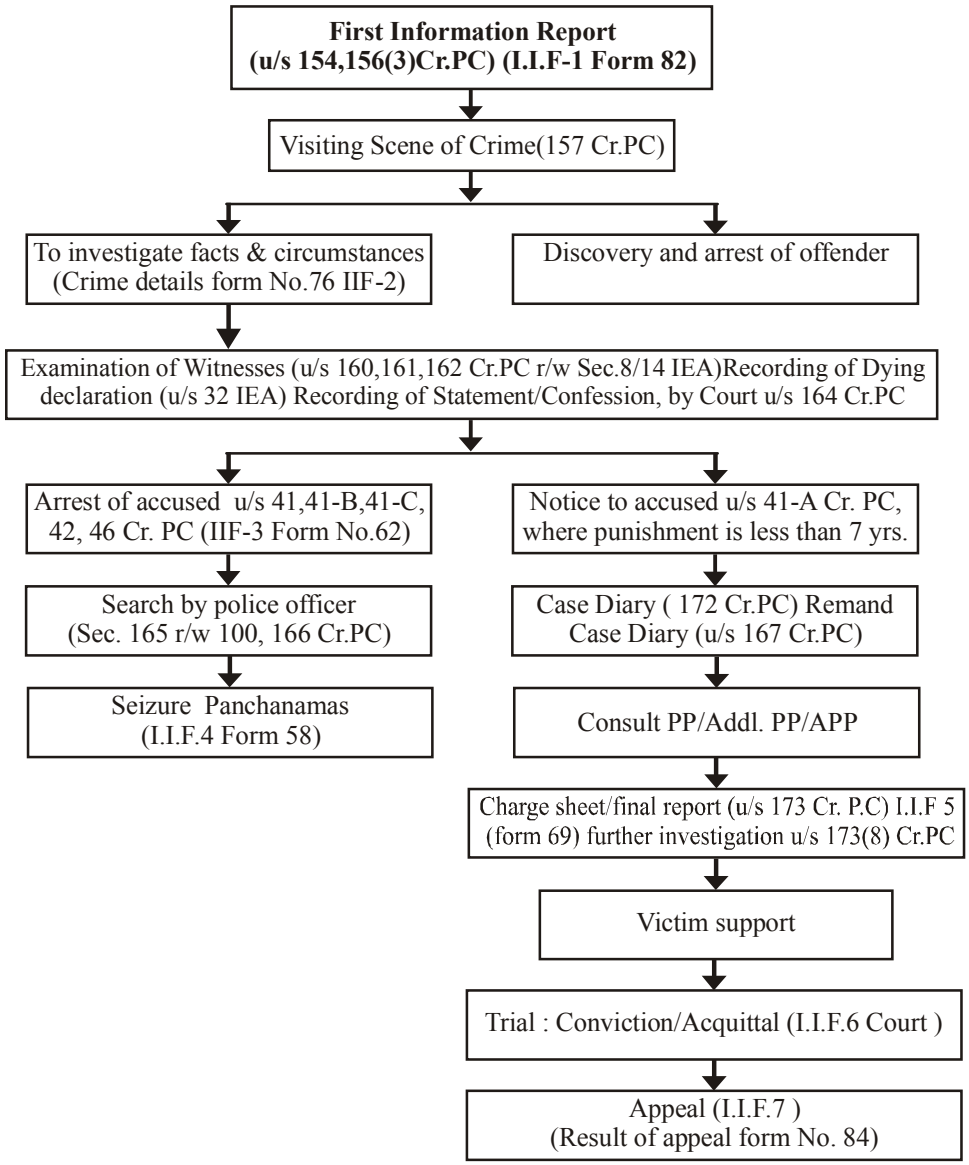
CHAPTER 21

Investigation - F.I.R. (First Information Report).

Police Investigation Flow Chart


First Information Report
(u/s 154,156(3)Cr.PC) (I.I.F-1 Form 82)
Visiting Scene of Crime(157 Cr.PC)
To investigate facts & circumstances
(Crime details form No.76 IIF-2)
Discovery and arrest of offender
Examination of Witnesses (u/s 160,161,162 Cr.PC r/w Sec.8/14 IEA)Recording of Dying declaration (u/s 32 IEA) Recording of Statement/Confession, by Court u/s 164 Cr.PC
Arrest of accused u/s 41,41-B,41-C, 42, 46 Cr. PC (IIF-3 Form No.62)
Notice to accused u/s 41-A Cr. PC, where punishment is less than 7 yrs.
Search by police officer
(Sec. 165 r/w 100, 166 Cr.PC)
Case Diary (172 Cr.PC) Remand Case Diary (u/s 167 Cr.PC)
Seizure Panchanamas
(I.I.F.4 Form 58)
Consult PP/Addl. PP/APP
Charge sheet/final report (u/s 173 Cr. P.C) I.I.F 5 (form 69) further investigation u/s 173(8) Cr.PC
Victim support
Trial : Conviction/Acquittal (I.I.F.6 Court)
Appeal (I.I.F.7)
(Result of appeal form No. 84)

Note : All I.I.Fs 1 to 7 have to be entered in A.P. Police Intranet from time to time.

Some Basic Principles

1. "*Salus populi est Suprema Lex*" welfare of the people is the Supreme Law.
2. "*Autrefois convict*, *Autrefois acquit*"

   Person once convicted or acquitted not to be tried for the same offence (Sec. 300 Cr. PC)
3. " *Nemo debet bis vexari*" A man must not be put twice in peril for the same offence (Art. 20 (2) of the constitution). "double jeopardy".
4. Previous Judgment relevant to bar second suit or trial (Sec. 40 of Evidence Act)
5. Since Telugu language is the Court Language (u/s 272 Cr. PC) vide G.O.Ms. No. 485 of Home (Courts-B) Dept., Dt: 29.03.1974, the Police Officers have to use Telugu in lower Courts including filing Charge Sheets.
6. "*Ignorancia Juris neminem non execusat*"

   'Ignorance of law is no excuse'
7. In the State of *Gujarat vs Kishan Bai* (07.01.2014 Civil Appeal 1485/ 2008) the Supreme Court has directed all the State Governments to take action against erring Investigating and prosecuting Officers responsible for failure of prosecution on account of sheer negligence or culpable lapses; such officers must suffer departmental action.
8. *In James Martin vs State of Kerala* (Appeal) No. 887 of 1987 dt: 16.12.2003, the Supreme Court Ordered that no person has any right to destroy the property of others in the name of strike, hartal, or bandh, irrespective of the proclaimed cause of reasonableness. Agitators have no right to take law into their hands. Any soft or lenient approach for such offenders would be an affront to rule of law and challenge to public order and peace.

409 Offences are classified as :-

i. Cognizable, (Sec.2 (c) Cr.PC) and

ii. Non-Cognizable (Sec.2 (l) Cr.PC).

Crime Investigation is launched by the State, as a criminal offence is considered as an injury caused not only to the person but also to the society.

The Table -I attached to Schedule - I of Cr. P.C. shows the nature of offences in IPC as cognizable or non-cognizable. Table - II specifies the cognizable or non-cognizable nature relating to offences under special and local laws, if there is no specific mention in those Acts.

1. A list of new offences is classified in Criminal Law (amendment) Act, 2013, dated 03.02.2013 and for non-registration of cases under certain crimes, the SHO is punishable u/s 166 A IPC.

2. Section 154 Cr. P.C. lays down that when an officer-in-charge of a police station receives information relating to commission of cognizable offence he shall record it in verbatim and enter the same in a printed form. If the information is given orally, it should be reduced into writing by him or by his subordinate under his direction and secure the signature or thumb impression of the informant. The information so reduced shall be read over to the informant. After entering the information in the printed form, it shall be registered as First Information Report (FIR) under appropriate sections of law and Police Officer shall upload the same in IIF- 1 in AP Police intranet. A copy of the F.I.R. after registration shall be furnished to the informant free of cost (154 (2) Cr. PC). Refusal to register the information about a cognizable offence is punishable under section 217 IPC. They are also liable for punishment, u/s 166-A IPC for non-registration of cases u/s 354,354 B, 326A, 326 B, 376, 376 A to 376E and 509 IPC. Sec. 166 A IPC is cognizable, bailable, triable by JFCM with a minimum imprisonment of 6 months. The informant can send the information even by post to the SP of the District / CP of the City who shall register the same as an FIR himself or get it registered if he is satisfied that the contents show a cognizable offence and investigate or direct any subordinate officer to investigate. The SP/CP also may cause an enquiry against the officer who had refused to register and can take appropriate action. The brief contents of the F.I.R. shall be entered in the General Diary (GD). The victim shall be informed of his/her right regarding compensation in certain cases. G.D. entries are relevant u/s 35 Indian Evidence Act, 1872.

3. Information relating to the cognizable offences should be registered even if they are presented in a police station not having jurisdiction and such registration should not be refused on the point of jurisdiction. After registration it should be transferred to the concerned police station. This type of prompt action will save not only delay in the registration of F.I.R. but also prevent inconvenience to the informant. In addition, the police station where F.I.R. is registered, to begin with, can initiate action without loss of time. Women Police Officer/ Women Officer shall record offences u/s 326 A, 326 B, 354, 354A, 354 B, 354 C, 354 D, 376, 376A,376B, 376C,376D, 376E and 509 IPC. Station House Officer shall videograph such recording. If the complainant is temporarily or permanently, mentally or physically disabled, SHO shall also get the statement recorded u/s 164 Cr.PC as soon as possible. *[Lalita Kumari Vs Government of UP and others* in WP (C) No.

68/2008 dated : 12.11.2013, regarding registration of FIRs in cognizable offences.] *State of Gujarat Vs Kishan Bai*, Criminal appeal No. 1485/2008, dated: 07.01.2014, the investigating and Prosecuting Officers were held responsible for improper investigation leading to acquittal necessitating departmental action against Police/ Prosecuting Officers.

4. The refusal to sign or to put the thumb impression as the case may be on the F.I.R. is an offence under section 180 IPC.

5. In case of oral complaint, care should be taken to ensure that the FIR contains all the essential facts to avoid contradictions by way of omission when the informant is examined in the court. In view of this when the SHO records the oral statement of the informant, he should put questions and elicit required information from the informant as far as possible as to when it happened where it happened, what time, who did it, why it happened and how the incident occurred.

6. Whenever, a report relating to commission of non-cognizable offence is presented in a police station, the SHO shall enter the substance in the G.D. and advise the informant to approach the court and present it there, as he is not competent to register and investigate such cases. But if one of the offences among the contents of the report is of cognizable nature, it becomes a cognizable case and he must register and investigate the case.

7. Some times informants directly go to courts and present even cognizable report. If the court endorses such reports or endorses a non-cognizable report when presented to the court, such reports on endorsement shall be registered by the SHO and get them investigated. But when a non-cognizable report is endorsed by the court, the SHO shall not arrest the accused without the orders of the court.

8. Complaints made by telegrams or telephones need not be recorded immediately as F.I.R. unless authenticity is verified or a statement has been recorded or a written report obtained from the sender. The factum of receipt of telegram or telephonic information has to be noted in the station general diary (GD). In cases of extremist violence *Suo-motu* cases can be registered when victims do not come forward to give a complaint.

9. A vague rumour should be distinguished from an oral report and should not be reduced into writing but entered in the G.D. When the information is well founded after immediate enquiry by the SHO about its authenticity, the report should be obtained and a case should be registered.

10. The SHO can register *suo-motu* case in a cognizable offence on his own information also and need not wait till someone reports.

11. With regard to exchange of fire cases, Supreme Court Guidelines in *PUCL Vs State of Maharashtra* Criminal Appeal No. 1255 of 1999, dated : 03.09.2014 be followed. Half yearly reports of SsP/ CsP to be sent to NHRC by 15th January / 15th July every year.

    Note : If the information received does not disclose a cognizable offence, but indicates the necessity of an enquiry, a preliminary enquiry (not exceeding 7 days) may be conducted only to ascertain whether cognizable offence is disclosed or not. If enquiry disclosed commission of a cognizable offence, FIR must be registered.(W.P. criminal No.68 of 2008 of Supreme court of India in *Lalita Kumari Vs Govt. of U.P. and others dt. 12-11-2013*). The category of cases (as per Supreme Court of India) in which preliminary inquiry may be made are (a)Matrimonial disputes, Family disputes (b) commercial offences (c) Medical negligence cases (d) Corruption Cases (e) Cases where there is abnormal delay/laches in initiating criminal prosecution like delay over 3 months in reporting the matter without satisfactorily explaining the reasons for delay.

    (Rc.No.1751/M3/2013,dt: 21.12.2013 of DGP, A.P. regarding - Communication of Apex Court Judgment dt: 12.11.2013 with regard to Compulsory registration of cases in Cognizable offences.)

Web.site:http.//khoyapaya.gov.in

a) To trace and re-uniting children with their families

b) A web portal to exchange information on missing and found children, across the country.

c) An enabling platform for citizens to report missing children and children sighted abandoned, lost and moving with suspicious persons.

d) Intranet application IIF-1; All FIRs have to be uploaded in IIF-1 in AP Police Intranet before 12 midnight.

FIR Book

410-1. All cognizable offences and reports forwarded by courts on endorsement including non-cognizable cases shall be registered in the FIR book.

2. For administrative reason, the information pertaining to the following may also be registered in the pro-forma of the FIR and given FIR number under relevant heads like Cr. No. ...../....16 u/s Man missing.

A. All cases of suicides and accidental deaths where inquest is conducted under Section 174 (3) Cr. P.C.

B. Accidental fires, missing of persons, missing cattle, etc. to be registered as FIRs. Apex Court Judgment in *Bachpan Bachao Andolan Vs Union of India WP (civil) 51 of 2006, dated : 18.07.2013,* communicated by MHA (CS Division) Govt. of India in C.No. 24013/ 62/2012-SC/ST-W, dt:25.06.2013.Enshrines principle of registration of FIR in all missing persons cases. Once traced, the missing Children (Boys/Girls) have to be produced before the District Child Welfare Committee (CWC) and as per CWC orders the children need to be restored. Those who are in need of care and protection will be admitted to Homes as per Juvenile Justice (CPC) Act, 2015. Data should be uploaded in the missing children website of AP Police intranet promptly and the investigation should be taken up immediately.

C. Cases booked under sections 41, 107 to 110 and 102 Cr. P.C.

3 If the report is made at a police outpost, FIR should not be registered by its in-charge, as he is not the SHO. He shall record the statement of the informant and send it immediately to the police station for registration after entering the substance in the outpost G.D. However, if a written report is presented its gist will be entered in the outpost G.D. and the report will be sent to the police station for immediate registration. The in-charge of the outpost shall then proceed to the scene of occurrence and shall take steps to preserve the scene and evidence, arrest the accused if warranted and recover weapon of offence or stolen property or take any other necessary steps if any, pending arrival of the SHO to conduct investigation.

4. If the officer-in-charge of police station receives a report during his tour, he should send it to the station with due endorsement for registration. In the meanwhile he can commence investigation.

5. Whenever, statements are reduced into writing by SHO in property offences, the description of stolen property should be incorporated in detail as far as possible. Similarly, in cases of rioting the number of accused should be mentioned precisely and if possible they should be identified by name or description.

6. Though FIR is to be registered before investigation commences, it need not be taken always as a precondition. If a report of a serious crime is received by SHO he may leave post haste to the scene directing the next subordinate who is holding the charge of the SHO in the station to register a case. For example, if SHO is informed that a serious breach of peace is occurring in his jurisdiction or a murderous attack is taking place, it is the duty of the SHO to proceed to the scene at once.

FIR - Whom to be sent :

Intranet Application of Integrated Investigation Form -1 : All FIRs have to the uploaded in Integrated Investigation Form in AP Police Intranet before 12 midnight.

411-1. The FIR in original shall be sent to the Magistrate having jurisdiction without delay. One copy of the FIR will be retained in the station and one copy each; will be sent along with the station house GD to the Inspector, the Sub-Divisional Police Officer and the SP. When the Magistrate having jurisdiction is not the local Magistrate, a copy will be sent to the latter also. Carbon or photocopying process or any other copying process may be used to make the copies of FIR. The original written complaint made by the complainant shall be attached to the original FIR meant for the Magistrate, but copies of it will be made and attached to the other copies of FIR. One copy of FIR shall invariably be given to the complainant free of cost, even if the complainant does not ask for it.

2. There are several laws both Central and State in which certain offences are cognizable. The officer-in-charge of the Police Station receiving information disclosing a cognizable offence under any of these laws shall take action to record the FIR. If the Special Act is directly concerned to any department, a copy of the FIR may be marked to them for information. For example in cases under NDPS Act a copy of FIR should be sent to the Deputy Director of Narcotics Control Bureau, Chennai or Central Excise Officers having jurisdiction. Similar procedure should be followed in respect of the cases registered by the Police pertaining to Central Excise, Customs, State Excise and Prohibition departments.

3. There are certain cognizable offences under certain Special Acts where the police officials of certain ranks are only empowered to investigate, whereas in certain offences it is not the police but the officer of specified department and agencies are empowered to investigate. In such cases, any information disclosing cognizable offence received, should be registered and forwarded to the police officer competent to investigate such case or to an officer of any other department, competent to investigate.

4. FIRs registered under POCSO Act, 2012 should be sent directly to Special Court of I Addl. District and Sessions Judge in all the Districts and the Courts of I Addl. Metropolitan Sessions Judges in Metropolitan Sessions Divisions of Visakhapatnam and Vijayawada as per G.O. Ms. No. 30,Law (LA&J-Home- Courts C1) Department, dated: 28.03.2012 as per Section 33 of POCSO Act. As per G.O. Rt No. 2364 Law (LA&J Home Courts A1) Department, dt: 23.12.2013, Addl.

PPs/ Senior Addl. Public Prosecutors in District Judge Court are designated as Special PPs to conduct prosecution. A copy of the FIR has to be sent to the local Judicial Magistrate. POCSO Act - court is also children court under Juvenile Justice (CPC) Act, 2015.

Express Reports

412-1. In grave crimes listed in Order 52-7 and specially grave offences listed in Order 55-2 of Chapter 3, a telephonic/Fax/Radio message/e-mail/AP Police Intranet should be sent to SP and SDPO and in latter category of cases, also to the District Magistrate. FIRs shall be sent with a copy of such message sent already, by speed post or courier to SP, SDPO and the Magistrate having jurisdiction.

2. These reports are termed "Express Reports" and should be sent as quickly as possible by means of fax, telegram or through wireless. While in grave cases, express FIRs have to be sent by hand immediately after registration of in addition to sending it through AP Police intranet FIR and in non-grave cases they can be sent by post.

3. An immediate report in respect of cases of specially grave nature (Order 55-2) should be sent to the SDPO and the SP by the quickest means possible as the SDPO/SP have to send information by fax, radio/telegram to the Government, DGP, Zonal IG/DIGP and the District Magistrate in respect of such cases. It will, however, be noted that where a copy of the FIR could be delivered through a messenger to the SDPO or SP before a telegram/RM/FAX could possibly reach, only an express report need be sent. Any additional information sought by the Government, DGP, Zonal IG/DIGP in these cases, should be furnished promptly.

4. In every case of use of fire arms by police in the Districts in dealing with a riot or in self-defense, an express report or radiogram or telegram or fax or e-mail whichever, is the quickest shall be sent to the District Magistrate. In this report, the number of persons killed or injured, if any, shall be stated with their identity, if known. In Commissionerates reports to be sent to the Principal Secretary Home with copies to Chief Secretary to Government, DGP, Addl.DGP Law & Order, Addl.DGP Intelligence, Addl.DGP (CID).

5. As regards reports of accident in connection with explosives or inflammable material, the procedure laid down in Order 300 should be followed.

413. Registration of cases reported at police stations other than the jurisdiction police station

413-1. When an offence committed within the railway police jurisdiction is reported to local Police Station in a district or *vice- versa*, or when a crime committed in the jurisdiction of another police station within this state is reported to the SHO of a Police Station, the station which receives the report shall forthwith register FIR, enter the substance of FIR in GD and inform the police station having jurisdiction by telephone or radiogram or e-mail or telegram. This shall be followed by immediate despatch of the FIR by the speed post or any other reliable means, transferring the case. The police receiving the information first, should take all initial necessary steps, as they would do, in a case occurring in their own jurisdiction.

2. If the place of occurrence is near and easily accessible from the police station, the SHO or the investigating team will at once proceed to the spot, take up investigation and continue till relieved by the police having jurisdiction. Simultaneously, action will be taken to send immediate intimation to the police station having jurisdiction. When the investigation is taken over by the latter, the FIR should be transferred, making counter case FIR number entries in FIR index.

3. If the place of occurrence is far away, immediate intimation should be sent to the police having jurisdiction by the quickest possible means and the FIR transferred to them simultaneously. Similarly, if a report disclosing a cognizable offence that was committed outside the State is presented, it will be registered and the substance entered in the GD, and the FIR so registered shall be forwarded at the earliest to the concerned SHO and if not known, to the concerned Superintendent of Police or DGP of the state by any reliable means under due acknowledgement. If any of the persons, who are reasonably believed to have taken part in the offence, are found in the limits of the station where the offence is reported and if the offence alleged against them is of a serious nature and there is reasonable apprehension that they will abscond unless apprehended immediately, they should be arrested and produced before the local Court having jurisdiction and intimation of their arrest should be promptly sent to the police station within the jurisdiction of which the offence has occurred.

Registration of cases when station limits of occurrence are doubtful

414. The police to whom a cognizable offence is first reported shall register the case and take up the investigation, where the offence has been committed close to a boundary between stations and it is at first doubtful in which station limits it has occurred. The Police Station, which should retain the investigation, should be subsequently settled.

The police station, which first gets the information of the case, should register it, take it up for investigation and endeavour to detect it.

FIR – its value

415. The FIR is an important document. It is the earliest record made of an alleged offence before there is time for its particulars to be forgotten or embellished. It can be used to corroborate or impeach the testimony of the person filing it under sections 145, 157 and 158 of the Indian Evidence Act. It can also be used under clause (1) of section 32 and illustrations (j) and (k) under section 8 of the Indian Evidence Act. It is necessary that the drawing up of this document is done with utmost care and accuracy and with all available details.

Salient points to be remembered in registering and dispatching FIR

416. The following points shall be borne in mind when registering an offence.

1. Write the FIR immediately with all available details, and enter the facts, at once in the GD, mentioning the name of the complainant or informant, father's/husband's name, age, occupation and residence, the time of reporting at the police station and brief particulars of the report, including the crime number and section of law and indicating the action taken.
2. Obtain the signature or, if he is an illiterate, the thumb impression of the complainant or informant on all the pages of the statement.
3. Record all available facts of the case if complaint is made orally in unambiguous terms and make sure that no important point is omitted.
4. Use ballpoint pen with black ink used for document writing, for writing the FIR or print on a typewriter or on computer printer and make copies by carbon process or photocopying, as the case may be. The hand written or typed complaint can even be scanned, if need be. Immediately enter the details in I.I.F-1 in A.P. Police Intranet.
5. Do not make corrections, erasures, or over-writings. If a correction is necessary, strike out the word/words, leaving them still legible, and attest it.
6. Record the original written statement report of the informant, the date and hour of its receipt and through whom it was received.
7. Ascertain and incorporate in the FIR the reasons for the delay, if any, in the receipt of the report or in the making of the complaint at the police station.
8. Register a case even if the information is from the accused.
9. In cases registered *suo-motu*, satisfy yourself that the FIR contains a full and correct record of all facts and circumstances relating to the offence and the offenders, including the names of witnesses, if any.

10. Fill all the columns of the FIR (Integrated Investigation Form-1) as elucidated in form 82:

A. Use only the prescribed Integrated Investigation Forms - 1 and fill up all the columns accurately on the basis of available information using words and symbols prescribed, correctly in brief language, which brings out essential features of the crime. It is not advisable to use such words as "Nil" when information in particular column is not available at the moment.

11. The copy of FIR should be dispatched or made available to the following officers by the earliest possible means:

A. The Jurisdiction Magistrate (in original)
B. Superintendent of Police / Commissioner of Police.
C. Sub-Divisional Police Officer
D. Station file
E. The complainant or informant
F. To the concerned Police Station/Department if the crime reported pertains to their jurisdiction

12. Attach the original written complaint to the original copy of the FIR to be sent to the Magistrate, while keeping a photo copy in CD file.
13. Despatch the copies of the FIR to the Magistrate (in original) and other officers without any delay and enter the manner, the date and hour of despatch in the concerned records.
14. Satisfy yourself that the copies of the FIR are delivered promptly under proper acknowledgment, if sent through messenger. If sent by post, obtain a certificate of posting. The FIR can be mailed by the SHO to the concerned Jurisdictional magistrate with attachment.
15. In grave cases and cases of specially grave nature send copies of FIR through courier or speed post or by express messengers; if delivery is local, or by fax or e-mail.

416 - A. AP Police Intranet Integrated Investigation Forms :

IIF. No.	Integrated Investigation Form	Chapter and Order No.	Form No.
1	FIR Form	33- 609 -1	82
2	Crime details Form	33 & 40 587-2-B,609-2	76
3	Arrest/Court surrender form	33 & 40 - 609-3	62
4	Property Search and seizure form	24 & 33 - 440-12, 609-4	58
5	Charge sheet/case disposal report form	28 & 33 – 480-1,480-2,481,482,487 and 609-5	69
6	Court disposal form	33 - 609-6	83
7	Result of appeal form	33 & 40 609-8	85

FORM - 82

(IIF-1) See Order No.609-1

FIRST INFORMATION REPORT

(Under Sections 154 & 157 Cr.P.C.)

1. *Dist……*Police Station…...*Year……..*FIR. No…...*Date…..…

2. (i) *Act……*Sections……....

   (ii) *Act……...…*Sections……..…….

   (iii) Act……*Sections……..……

   (iv) *Other Acts & Sections…….....

3. (a) *Occurrence of offence :Day….*Date from……*Date to… *Time Period……..…*Time from…..…*Time to……...

   (b) Information received at the Police Station Date…..Time……

   (c) General Diary Reference: Entry No. (s)……. …….Time…...…

4. Type of Information : *Written / Oral

5. Place of Occurrence :

   (a) Direction and Distance from P.S. ……. Beat No……....

   (b) *Address……

   (c) If outside the limits of this Police Station, then the name of concerned Police Station…… District ……..

6. Complainant/Informant.

   (a) Name……

   (b) Father's /Husband's Name……

   (c) Date/Year of Birth…….

   (d) Nationality……..……

   (e) Passport No……Date of Issue…….Place of Issue……

   (f) Occupation……..……

   (g) Address……

7. Details of known/suspected/unknown accused with full particulars. (Attach separate sheet if necessary ……)

   Physical features, deformities, and other details of the suspect:

* Sex	* Date / Year of Birth	* Build	* Height in Cms	* Complexion	* Identification of Marks
(1)	(2)	(3)	(4)	(5)	(6)
Deformities/ Peculiarities	*Teeth	*Hair	*Eyes	*Habits (s)	*Dress Habits
(7)	(8)	(9)	(10)	(11)	(12)
*languages / Dialect	*Burn Mark	*Leucoderma	Mole	*Scar	Tattoo
(13)	(14)	(15)	(16)	(17)	(18)

These fields will be entered only if complainant/informant gives any one or more particulars about the suspect. This will be used only for the purpose of preliminary retrieval to assist Investigating Officer.

A data base created will subsequently link one suspect in several cases, if any.

A comprehensive and complete data on all fields will again be prepared when any accused is arrested irrespective of previous suspicion.

8. Reasons for delay in reporting by the Complainant/Informant ……

9. Particulars of properties stolen/involved (Attach separate sheet, if necessary) ……

10. *Total value of properties stolen/involved……

11. *Inquest Report/ U.D. Case No. if any ……

12. Contents of the complaint / Statement of the complainant or Informant (Attach separate sheets, if required):

13. Action taken : Since the above report reveals commission of offence (s) U/s. as mentioned at Item No.2. registered the case and took up the investigation/directed* …… Rank …… to take up the investigation. Refused investigation/transferred to Police Station…… on the point of Jurisdiction.

F.I.R. read over to the Complainant/Informant, admitted to be correctly recorded and a copy is given to the Complainant / Informant free of cost.

Signature of the

Officer-in-charge of Police Station.

Name……

Rank…… No……

14. * Signature/Thumb impression of the Complainant/Informant *

15. Date & Time of despatch to the Court.....

***

416-B :Juxtaposing Cr. PC procedural law with Evidence Act sections coupled with APPM

SI. No.	Cr.P.C with APPM Order	Evidence Act
1	Sec.154 F.I.R Order No.409	Sec.8 : Motive, preparation and previous or subsequent conduct. (Illustration (k) alone is relevant) Sec.11 : Important omissions in FIR are relevant Sec.35 : Relevancy of entry in public record, (or an electronic record) made in performance of duty. Sec. 74 : Public Documents. Sec. 145 : Contradiction Sec. 157 : FIR can be used for corroboration also
2	Sec. 161 Examination of witnesses by Police Order No.427 Sec.165 Cr.PC	Sec.7 : Facts which are the occasion, cause or effect of facts in issue Sec.8 : Motive, preparation and previous or subsequent conduct Sec.9 : Facts necessary to explain or introduce relevant Facts Sec.10 : Things said or done by conspirator in reference to common design Sec.145 : Cross-examination as to previous statements in writing. Sec.54 : Previous bad character not relevant, except in reply. Sec.59 : Proof of facts by oral evidence Sec.60 : Oral evidence must be direct. Sec.154 : Hostile Witness Sec.159 : Refreshing Memory
3	Sec. 157 Scene of Offence Panchanama, sending of FIR to Court PSO 549(8) SDPO competent to forward M.Os Order No.420 PSO 550, 551 & 552/554	Sec.7: Facts which are the occasion, cause or effect of facts in issue.

Sl. No.	Cr.P.C with APPM Order	Evidence Act
4	Sec.164 Recording of confession by Magistrate Order No.431, 432	Sec.26 : Confession to be made in the immediate presence of a Magistrate shall be proved as against such person. Confession before Magistrate u/s.164 Cr.PC is quite different from Confession u/s. 26 Evidence Act made in the immediate presence of Magistrate while in police custody).
5.	Sec.293, Reports of certain Government servants. Sec.164(A) Sec.292 – Evidence of the Officers of mint. Sec.294 – No formal proof of certain documents. PSO 549/ Sec.91 Cr. PC	Sec.45 :Relevance & Opinion of experts. Sec.45.A: Relevance & Opinion of Examiner of Electronic evidence r/w Sec.79A of the IT Act, 2000 Sec.47: Relevance of Opinion as to Handwriting Sec.47A: Relevance of opinion as to Electronic signature. Sec.159: Refreshing Memory
6.	Secs.273 - Evidence to be taken in the presence of the accused. Secs. 299 - Record of evidence in the absence of accused.	Sec.33 : Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated.
7.	Sec. 236 - Previous Conviction Secs. 298 - Previous conviction or acquittal	Only provides a rule of evidence Sec.14 : Explanation 2. Sec.54 : Previous bad character not relevant, except in reply
8.	Sec. 311A : Power of Magistrate to order specimen signature of accused. Order No.553.A	Sec.47 : Opinion as to handwriting, when relevant. Sec.73 : Comparison of signature, writing or seal with others admitted or proved.
9.	Sec.306 Cr. PC (Tender of Pardon) Order No.434 Sec.307 & 308 Cr. PC	Sec.133 : Accomplice Sec.114 : Court may presume existence of certain facts. (only illustration (b) is relevant)
10.	Sec. 291A : Identification reports of Magistrate	Sec.9 : Facts necessary to explain or introduce relevant facts Sec.34 : Entries in books of account including those maintained in an electronic form when relevant Sec.35 : Relevancy of entry in public record, (or an electronic record) made in performance of duty.
11.	Evidence for Prosecution Secs.231, 244, 242, 246, 254	Sec.138 : Order of examinations Sec.134 : Number of witnesses. Sec.137 : Chief Ex-cross. Ex-Re Exam. Sec.154 : Hostile Witness

SI. No.	Cr.P.C with APPM Order	Evidence Act
12.	Admission	Sec.21 : Proof of admissions against persons making them, and by or on their behalf. (Secs.22, 22A & 23 also provide for admissions which are relevant) Sec.17 : Definition of Admission - Any inference as to any fact in issue or relevant fact.
13.	Sec.172 Cr.PC Case Diary Order No.475	Sec.14 : Explanation 2. Reflects partially (facts showing existence of state of mind, or of body, or bodily feeling). Sec.35 : Relevancy of entry in public record, (or an electronic record) made in performance of duty.
14.	T.I. Parade, 54-A Cr. PC Order No.471	Sec.9 : Facts necessary to explain or introduce relevant facts
15.	Panchanama of Extra Judicial Confession	Sec. 24 : Confession caused by inducement, threat or promise, when irrelevant in criminal proceedings Sec. 26 : 24 to 30 Sec. 28 : Except 25 & 27 (Confessions coming within per view of Secs. 27 to 30 IEA are relevant)

CHAPTER 22

417. General Instructions to Investigating Officers

1) Pre-trial proceedings :

A. Investigation - Focus on ingredients of various offences. Admissible evidence Vs inadmissible evidences. (Secs. 8, 14, 60, 61, 62, 65, 65 B Evidence Act)

B. Audio-Video electronic recording of witness statement u/s 161 (3) Cr. PC

C. Sec.164 Cr. PC statements of wittnesses/Audio-video recording of proceedings.

D. Case diary (u/s 172 Cr.PC)

E. Issuance of NBWs/Search warrants and Sec.82, 83 Cr. PC Proceedings.

F. Evidence put forth in remand reports. (u/s 167Cr.PC) and Police custody remand u/s 167(2) Cr.PC

G. Evidence put forth in Charge sheets. (u/s 173 Cr.PC)

H. Countering bail petions filed by accused Sec. 482 Cr.PC (Inherent powers of High Court), Preparing draft counters in Crl. Petitions, Writ petitions etc.

I. DNA Fingerprinting

J. Obtaining specimen signatures, hand writtings u/s 311-A Cr.PC.

K. Test Identification Parade u/s 54A Cr.PC

L. Admissible evidence vs. Inadmissible evidence w.r.t. *panch*anama, search, seizure, suspects, accused identification, property identification, recovery u/s 27 Evidence Act, Dying Declaration (DD) u/s 32 Evidence Act., Suggesting Investigating Officer Plan of Action (POA), Securing Prosecution orders in Special category cases

M. Return of recovered stolen property to owners u/s 451 Cr.PC.

2) **Compounding/Plea bargaining Proceedings** :

A. 1. Short listing compoundable cases - Lok adalat matters.

2. Plea bargaining - M.S.D (Mutually Satisfactory Disposition) matters.(Sec.265 A to L Cr.PC)

B**. Trial of cases** :

1. Sessions cases- schedules- Pre-requisites. Grave and Specially grave cases like murder, dowry murder, dowry death, robbery, dacoity, rape, NDPS, POCSO cases, attempt to murder.

2. Non-grave cases : (Non-Sessions cases)

House breaking / Theft/498 A IPC 3&4 Dowry Prohibition Act/Hurt, white collar offences, Fake Indian Currency Note (FICN) etc. Joint trial u/s 219 Cr.PC.

3. The Stages of investigation by police may include:

a. Registration of a case in cognizable offences

b. Ensuring medical treatment to the injured

c. Ensuring investigative medical examination of accused u/s 53 Cr. PC for specific medical reports to connect him to the crime and u/s 54 Cr. PC in the event of arrest regarding his/her health status.

d. Proceeding to the spot u/s 157 Cr.PC.

e. Ascertaining facts and circumstances of the case u/s 157 Cr.PC

f. Observation of the scene of occurrence and collection of material objects u/s 157 Cr. PC

g. Examination of witnesses and recording their statements u/s 161 Cr.PC including Audio-video examination.

h. Recording of dying declaration, if necessary.

i. Conducting inquest u/s 174 (1) Cr. PC, if it is warranted and sending the body for autopsy

j. Search of arrested person u/s 51 Cr.PC

k. Arrest of the accused and recording his confessional statement

l. Search (100/165 Cr.PC), seizure of material objects in consequence to the confession u/s 27 of Indian Evidence Act.

m. Conducting of Test Identification Parade; u/s 54 (A) Cr.PC, if it is warranted

n. Getting answers as to what happend, Who has done it, when it happened, where did it happened, why it happened and how did it happened.

o. Formation of an opinion as to whether by the evidences collected, there is a case to proceed against the accused before a Court of Law or not and laying Charge sheet (Final Report) u/s 173 Cr.PC against the accused in a competent Court of Law under appropriate sections of Law.

Note : If the information received doesn't disclose a cognizable offence, but indicates the necessity for an enquiry, a preliminary enquiry (not exceeding 7 days) may be conducted only to ascertain whether cognizable offence is disclosed or not. If enquiry disclosed commission of a cognizable offence FIR must be registered(W.P. Criminal) No.68 of 2008 of Supreme Court of India in *Lalita Kumari Vs Government of U.P and others)*

The category of cases (as per Supreme Court of India) in which preliminary inquiry may be made are (a) Matrimonial disputes, Family disputes (b) Commercial offences (c) Medical negligence cases (d) Corruption cases (e) Cases where there is abnormal delay / latches in initiating criminal prosecution like delay of 3 months in reporting the matter without satisfactorily explaining the reasons for the delay.

The Investigation implies collection of evidences adhering to procedural laws which are admissible in the Court.

4. Sources for collection of evidence.

Evidences are generally collected from three sources, namely,

A. Persons (Victim/ Witness/Accused)

B. Things, Physical evidence at the scene and elsewhere.

C. Electronic / Digital evidence like SMSs, Mails, Face Book entries, Web entries, Tower location of Service provider.

5. What evidence can be collected from a victim:

The following facts can be stated by the victim:

1. If the offender known to the Victim, he will disclose his particulars, name etc.,
2. If the offender is not known, the victim can state the descriptive particulars of the offender, his / her cell phone number or email address.
3. The victim can also state the mode of operation .
4. Victim can state the motive, preparation and commission.
5. The victim can state the number of offenders involved, weapons used.
6. The Victim can also state the method of escape and direction.
7. The victim can also state the conversation of the offenders among themselves and with the victim.
8. A witness can also state the above facts apart from subsequent and previous conduct of the offenders

6. What information can be elicited from the accused?

The following information can be elicited from the accused :

1. About the facts stated by the victim and witnesses.
2. Motive, preparation and commission.
3. About the disposal of properties
4. Names and addresses of accomplices
5. If he denies the offence, he can be questioned on implicating circumstances.
6. The Police Officer can enquire about his *alibi*
7. His involvement in other offences etc.,
8. Physical evidence available on the body of the offender
9. Electronic /digital evidences linking the offender to the crime.

7. What is meant by investigation? (Sec. 2 (h) Cr.PC)

In *H.N Rishbad Vs. State of Delhi* in AIR 1955 SC 196, it has been laid down on the meaning and the scheme of code with regard to 'investigation' thus:

a. Proceeding to the spot

b. Ascertainment of the facts and the circumstances of the case

c. Discovery and arrest of the suspected offender

d. Collection of evidence relating to the commission of the offence which may consists of (a) the examination of various persons (including the accused and the reduction of their statements into writing , if the officer thinks fit (b) the search of places or seizure of things considered necessary for the investigation and to be produced at the trial, and

e. Formation of opinion as to whether on the material collected there is a case to place the accused before a Magistrate for trial and if so, taking the necessary steps for the same by filing of a charge sheet under Section 173 Cr. PC. The scheme of the Code also shows that while it is permissible for an officer-in-charge of a police station to depute some subordinate officer to conduct some of these steps in the investigation, the responsibility for every one of these steps in the investigation, wrests with the S.H.O. Section 168 Cr.PC mandates that when a subordinate officer makes an investigation he should report the result to the officer- in-charge of the police station.

8. Police Officer's power to investigate cognizable case:(u/s 156 Cr.PC)

1. Any officer in charge of a police station may, without the order of a magistrate, investigate any cognizable case which a Court having jurisdiction over the local areas within the limits of such station would have power to inquire into or try, under the provisions of Chapter XIII
2. No proceedings of a Police officer in any such case shall, at any stage, be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.
3. Any Magistrate empowered under section 190 Cr.PC may order such an investigation as above mentioned.

9. Investigation: When does it start?

The investigation begins when information relating to cognizable offence received by an officer-in-charge of the police station and he issues the FIR. The investigation can be started after receipt of complaint referred by the Magistrate under section 156 clause 3 of Cr.PC.

FIR is not a Pre-condition for starting investigation. It was held in the case of *Emperor vs. Khaza Nazeer Ahmed, AIR 1945* privy council 19 that FIR is no precondition in starting an investigation . Section 156 Cr.PC gives statutory authority to Police to begin investigation without FIR and without the permission of the Magistrate. The Supreme Court has affirmed this in *State of West Bengal v. S.N.Basak, AIR 1963 Sc 447=1963(1) Cr.L.J 341, In K.Nanavati v. State of Maharastra 1962 (1) Cr.LJ. 521 (541-S.C),* the Court held that - A First Information Report though an important document , is not, however, a *sine qua non* for starting the investigation as investigation is a question of fact and can be started without drawing up of a formal FIR.

In the *State of Uttar Pradesh v. Bhagawant Kishore, 1964 (1) Cr.L.J 140 (S.C*) Section 157 Cr. PC , lays down that an investigation can be initiated either on information or otherwise. It thus follows from the said section that an officer-in-charge of a police station can start investigation either on information or otherwise (e.g. *suo-motu*) as receipt of information is not a condition precedent for investigation.

10. Purpose of investigation :

In Jamuna Vs. State of Bihar; 1974 Cr.J 890 (S.C para 11 of the report) the Court held that " the duty of investigation officer is not merely to booster up a prosecution case with such evidence as may

enable a Court to record a conviction but to bring out the real unvarnished truth."

Can illegally obtained evidence be admissible?

Yes, illegality committed at the stage of investigation does not vitiate the trial in the absence of prejudice to the accused, so also a piece of relevant evidence does not become inadmissible merely because it is illegally obtained. Supreme Court accepted this observation in *R.M. Malkani vs. State of Maharastra, 1973Cr.L.J 228 (SC) = AIR 1973 SC 157.*

11. Who can investigate and who has the right of investigation ?

Any officer-in-charge of a police station may investigate any cognizable case. (S.156 (1) Cr.PC). Police Officer superior in rank to an officer in charge of police station may exercise the same power (S.36 Cr. PC).

Power to investigate cognizable offences**:**

417-1. A police officer-in-charge of a police station is empowered to investigate every cognizable offence within the jurisdiction of that police station. Even if the police officer investigates a cognizable offence registered in his police station, he can investigate any where in India to elicit the truth.

2. If a police officer intends to investigate a non-cognizable offence, he can take the orders of the court and investigate, but he shall have no power to arrest.

3. The Magistrate may under section 156(3) Cr.P.C. order the police officer to investigate any cognizable offence. Further, any Magistrate may direct an investigation to be made by a police officer on a private complaint received by him, of an offence, which may be either cognizable or non-cognizable. In both the cases referred for investigation either under section 156(3) or under section 202 Cr.P.C the police officer has to necessarily register the crime in his police station and issue FIR immediately before taking up investigation. It is only that police officer, to which the matter is referred, has to investigate that particular case and that police officer cannot further endorse the crime for investigation by any other or subordinate officer. After completing the investigation, the police officer in both the types of cases, has to submit his police report to the Magistrate under section 173 Cr.P.C.

4. Even after submitting final report under section 173 (2) Cr.P.C. either by way of charge sheet or by way of referred cases, the police officer is not precluded from collecting further evidence of the offence during further investigation. In case the police officer finds any relevant

oral or documentary evidence even after filing charge sheet, the police officer has to forward the same to the Magistrate by way of further report, which is generally termed as additional information or additional charge sheet under section 173 (8) Cr.P.C.

5. After registration of the offence and sending FIR, the police officer has to proceed in person or he shall depute one of his subordinate officers to proceed to the spot for investigation and also for taking measures for discovery and arrest of the offender (section 157 Cr. PC). In case the offence is not of a serious nature, the police officer need not proceed in person or depute a subordinate officer to make investigation on the spot. (Section 157 Provision (a) Cr.P.C.). If it appears to the police officer that there is no sufficient ground for entering into investigation, the police officer need not investigate such a case (Section 157 Proviso (b) Cr. PC.). Where the police officer does not investigate the case as no sufficient ground for investigation is found, then the police officer shall prepare case diary and send final report.

6. Investigation should be impartial:

Investigating officers should have 'open mind' in their investigation. It must be understood that the aim of investigation is only to find out the truth.

Examination of the scene of offence and incident control:

418-1. As soon as the information about an offence is reported, SHO shall, by quickest available means, proceed to the scene of offence after registering the FIR or making arrangements for the same depending on the nature of offence reported. It is important that the Investigating Officer and his team proceeds to the scene of crime as expeditiously as possible and perform their respective functions. Particular care should be taken for preservation of the scene, collection of all material and other evidence. Steps should also be taken for the arrest of accused or pursuit of the accused if warranted and justified for the investigation of the case. The instructions of the Inspector of Police investigating the case and authorized to investigate that case, shall be complied with by all subordinates concerned.

2. The search of the scene and its surroundings should be made patiently, methodically and in a definite order and not in a hurried or haphazard way lest valuable clues are missed or lost. Special attention should be paid to the floor, walls, ceiling, window sashes and all protuberances and edges, which are likely to bear traces. Nothing capable of bearing fingerprints or other trace should be ignored. The procedure as laid down below should be followed.

Protection of Crime Scene:

419-1. The first action of the investigating officer who first reaches the scene should be to secure the crime scene from unauthorized persons by setting up barricades/tapes and cordoning off the area if required. The best physical evidence is normally found at the place where use of force against persons or property has taken place. Sometimes valuable pieces of evidence may be discarded or dropped or it may fall off accidentally or inadvertently at some distance from the scene of crime. Such spots also need proper protection. All such critical areas should be secured from intruders and stray animals or neighbours, friends, sympathizers, curious onlookers, newspaper reporters, press photographers and others who are not officially connected. The whole area should be cleared of all unauthorized persons in the quickest possible time. The Press and other Media should be requested to keep beyond the barricaded/secured area.

The following steps should be taken for protection of the scene of the crime:

A. Cordon off the scene and surroundings, access and exit points effectively.

B. Identify and persuade to retain the person who first informed the Police. Otherwise, note his address, telephone number etc.

C. Persons who are likely to provide information, investigative leads and other pertinent details should be segregated and examined for collecting all possible information, Eye-witnesses should be requested and allowed to stay at earmarked place for examination.

D. Physical evidence should be protected from pet animals like dogs, cats, rabbits, etc., and also rats, mice and birds, as also from adverse environmental influences such as wind, rain, sunlight, dust, smoke, moisture, etc.

E. No physical evidence should be disturbed from its original position without properly recording it. Jewellery, keys, currency notes and other valuable items with evidentiary value, vulnerable to theft from the scene, should be removed and preserved after a seizure list is drafted.

F. During the preliminary inspection of the crime scene care should be taken to ensure that nothing is inadvertently dropped such as cigarette butts, match sticks, empty packs of cigarettes, match boxes, ash, etc. and nothing is touched that may cause interference with the fingerprints, footprints, etc., and nothing is added such as hair etc.

G. All physical evidence/traces should be lifted only after recording and thoroughly searching the crime scene. Where traffic is to be restored or place required for use, the examination of scene and other work

should be completed as expeditiously as possible but with thoroughness.

H. It should be borne in mind that evidence may not always be visible to eye. Even if visible, it may escape a non-observant eye or may not appear relevant. It is therefore, necessary that the scene or places be subjected to close scrutiny both by experts (Clues Team) and the Investigating staff.

419.2 First aid to the injured:

In the event of a person being dangerously wounded, the Police Officer who first arrives on the scene should render such first aid as is possible and necessary, without in any way disturbing the crime scene and take immediate steps to procure medical aid or send the wounded person without loss of time to the nearest hospital or dispensary for treatment. This should be done before entering into the formalities of the investigation etc., as the delay thereby incurred might cause serious risk to the life of the person so wounded. In nearly all cases, it should be possible for the Investigating Officer to note the position and nature of the injuries while arrangements are being made to procure medical aid or to send the injured person to a hospital.

419.3 Preservation of evidence

Simultaneous steps should be taken to preserve all valuable items or objects of evidentiary value at the scene. This is vital, as certain types of evidence is likely to get evaporated, decomposed, putrefied, degenerated or may undergo other chemical or biological changes with time and other environmental factors. Suitable containers like polythene or glass bottles, polythene bags, paper envelopes, aluminum foils, etc. and preservative substances should be kept ready for proper preservation of evidence. Depending on the nature of evidence suitable preservatives should be added under expert advice.

Examples : Tissue samples should be preserved in 20% Dimethyl Sulphoxide saturated with Sodium Chloride for DNA analysis and Viscera should be preserved in saline etc.

Recording of the Crime Scene:

420-1. The police have a limited time and opportunity to make an in-depth study of the crime scene in an undisturbed state. No time should therefore, be lost to record as accurately as possible the conditions existing when investigating officer arrives at the scene. Such a record will help the on-going investigations, reconstruction of the scene of

crime and also presentation in the Court. The judiciary and defence counsel need convincing evidence to substantiate the conditions and circumstances reported prevailing at the time of the crime. It is therefore, necessary to make a visual presentation that shows the various evidentiary items, witnesses and their interrelationship with the scene of crime. The methods of crime scene recording are Photography, Sketch, Observation notes, Videography and Audio tape recording.

Analog or Digital Photography

2. Photography is a useful method to make a permanent record of the crime scene and facilitates the reconstruction of the crime scene and description of the method by which the crime was committed. Photography is the best method of recording, serving several purposes including:

   a. A method of recording and storing information more accurately and for a much longer period than the human mind.

   b. A method by which evidence of transient and perishable nature can be recorded.

   c. A method by which certain details of evidence not normally perceivable by the human eye can be arrived at.

   d. A method by which vital and crucial facts can be illustrated two dimensionally.

3. Digital photographic cameras currently being used by CLUES teams facilitate quick reviews and recall of photographs on the screen and also permit transfer of data to FSL Hqrs., or any other location through computer and modem. Hence, the IOs should prepare to capture the crime scene photo through Digital cameras.

4. As per section 9 of the IE Act, photographic evidence is admissible to explain or introduce a fact. To ensure that the facts recorded by the photographic process represent a truthful picture, they should be (a) relevant and material to the case (b) faithful and truthful reproduction of facts, events, evidence etc. (c) free from distortion with correct tones, perspectives, positions and interrelationships and (d) should not be of a nature that arouses undue prejudice or sympathy.

How photographs should be taken

5. The scene of crime is available for a limited period only, with no scope for trial and error. Care is essential to obtain as much information from it as possible, as early as possible both by still photography and videography.

A. The scene of crime should be kept undisturbed before taking the photographs.

B. The working condition of camera, lens, flash, batteries, film, etc. should be checked before attempting any photograph. The film or any other recording medium such as tape, floppy, CD-R etc. used should be appropriate for the lighting conditions and capabilities of the camera.

C. Before commencing the work, the whole area should be inspected and all the shots required should be carefully planned.

D. While planning the number of shots, ensure that enough overlapping shots are included to sequentialise the scene.

E. Initially sufficient number of shots should be taken to give an overall perspective of the place of occurrence, approach to the place, entry, access and exit points.

F. While photographing evidentiary items, indoors or outdoors, enough overlapping shots and close-up shots should be taken to bring out interrelationships and to capture minute details. It is better to have three views taken viz.; overall view, mid-range view, and close-up view of all important items of evidence.

G. All photographs should be taken at eye level. In some unusual cases aerial views or below normal views may be taken depending on the crime scene and surroundings.

H. The chance of getting fingerprints, footprints, etc. left at the scene of crime, should always be exposed from a close distance.

I. A scale or foot rule should be placed beside evidentiary items such as footprints, knife, injuries, cut marks, etc. to indicate the actual size in the enlarged photograph.

J. It is worthwhile to include separate numbered cards or plates for each evidentiary item so as to ensure proper identification at a later stage.

K. After unloading the film or any other recording medium, it should be properly labelled, with details of the place, event, police station, date, case number, etc.

L. The observation notes should cover the following points : -

   a. Name of the photographer and address and Cell phone No.

   b. Date and time of each photograph taken

   c. Distance maintained between the lens and the object and direction

d. Technical information such as Type of Camera, Focal length of lens, Speed of the lens, Effective aperture, Shutter speed, Film speed, Type of Flash. Similar information should also be maintained to digital still or video cameras.

e. Special techniques such as oblique light, flood lamps, flashlight, UV light, Poly light, Filters etc., if used, should be noted against each shot.

f. Light and weather conditions in cases of outdoor shots.

Videography and Audio Tape Recording:

6(a) Like photography, videography and audio tape recording are useful in making a record of a crime scene, which help in scene reconstruction at later stage. In certain crimes like arson, videography provides an overall view of the scene and allows investigators who could not be present at the scene to visualize the important pieces of evidence and their relationship to one another. Videotaping should be used to supplement the information that is collected from other recording procedures viz., photography, digital photography, sketching and observation notes. A videotape review conducted with all the connected personnel will help reconstruction of the crime scene. It is advantageous because of its freeze frame capability, which allows Investigating Officers to replay, study and discuss particular scenes as often as necessary for reconstruction and continue the investigation. It is also possible to locate certain minute pieces of evidence recorded immediately after the incident but overlooked for collection. The process of video documentation is similar to still photography.

6(b) In a burglary case for example the Videography should start at the actual/suspected point of entry, cover the crime scene, point of exit and line of retreat. All-important spots can be focused through a zoom lens and more time can be allotted to cover from all angles. Further the voice recording capability can be used to describe what is seen while recording simultaneously. This capability can be also used in presenting to the Court to serve as a convincing proof. All the precautions suggested earlier for photography should also be followed for these recordings.

6(c) As per Sec. 161(3) Cr.PC statement of victim recorded by I.O. can be Videographed.

Sketching the Crime Scene

421. After the scene is photographed, it should be sketched, to provide measurements indicating the relative distance and position of the various items of evidence and their inter relationships.

1. The sketch is the first visual record of the condition of the crime scene. It portrays the crime scene and items within that scene that are of interest to the investigation. Sketches properly prepared are useful during the interview of witnesses, in making notes in the case diaries and in presenting information to the court. The sketch complements the photographs and notes made while observing the crime scene. The ultimate purpose of the crime scene sketch drawn as per set scale and plan, which is also known as crime scene planning, is to represent the facts of the crime with such clarity and precision that the crime itself may be reconstructed from the details. Courts rely to a great extent on sketch of the scene prepared.

2. The Investigating Officer should make a rough sketch of the crime scene on the basis of his own observation but not what is stated to him by witnesses as such a sketch will be hit by section 162 Cr.P.C. Even if the sketch contains some out of his own observation and some out of what is stated by witnesses, such sketch will be inadmissible in courts, as admissible part cannot be separated from inadmissible part. The sketch need not be drawn to scale, but should indicate accurate distances between objects, dimensions of areas and relative directions. The items to be included in the sketch and the number of copies should be determined at the outset.

   All sketches should cover the following aspects.

   A. In the case of indoor scenes, the size of the window(s) and room(s) and in the case of outdoors, area dimensions with reference to some fixed objects like trees, electric or telephone poles, lamp posts or other landmarks should be indicated.

   B. The approach to the crime scene such as roadways, streets, by lanes, pathways, etc. should also be drawn to facilitate reconstruction.

   C. The orientation of the scene with reference to “magnetic north”.

   D. The apparently visible items should be indicated by accurate measurement from at least two fixed points.

   E. The position of eyewitnesses and accused persons and places indicating all stains, footprints, tyre or drag marks and other objects of victim or accused.

   F. In case of extended scene of crime from the source, transit and destination, all the three areas should be photograph, videographed and shown in a map.

3. The following information must invariably be mentioned on the sketch and Photograph enclosed with the Case Diary.

   i. The investigator’s full name, rank, address.

ii. Crime number, section of law, police station, and district

iii. Address of the crime scene, its position in a building, landmarks and compass direction

iv. The visible items of physical evidence and critical features of the crime scene. A legend to the symbols may be used to identify objects or points.

4. The rough sketch once drawn should not be altered. A smooth or fair sketch should be prepared on the basis of the rough sketch. The smooth sketch also known as crime scene plan drawing is prepared as per a convenient scale and plan from the details of rough sketch. Colour drawing will be helpful to distinguish various objects or the features of an object.

Methods of sketching

5. It is important that measurements shown on the sketch are as accurate as possible and are made and recorded uniformly indicating North, South, East and West with land marks if any. An erroneous measurement becomes difficult to explain and can introduce doubt in the minds of judges and others concerned not only regarding the authenticity of the crime scene processing, but also the competence of investigator. The investigator should therefore, follow a standard method of sketching depending on the nature and background of a case. Standard methods normally adopted for sketching are described below.

A. Coordinate Method or Baseline Method: This method uses the principle of measuring the distance of an object from two fixed points. The fixed points are normally selected in such a way that they are straight and most of the evidence is located in the vicinity. The line joining these points is known as the baseline. In indoor scenes one side of a wall of the room where the crime occurred can be taken as the baseline. In outdoor scenes any two trees or other fixed points can be joined and taken as the baseline. Once the baseline is fixed all measurements should be taken by drawing a perpendicular line from the evidentiary item to the baseline. The distance between the nearest fixed point and the point where the perpendicular line meets the baseline should also be taken. These two measurements will help locate and fix the position of each item and its relationship with other items. The method is illustrated in figure 1.

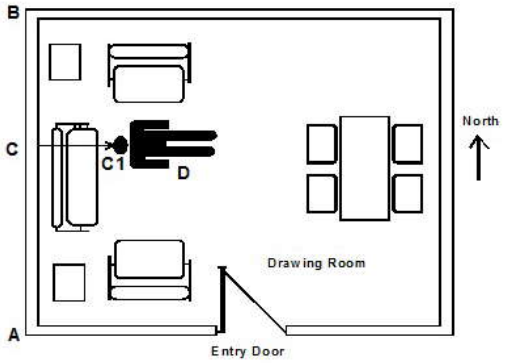


FIG.1 : BASELINE OR COORDINATE METHOD

A, B - Two fixed points (coordinates)

AB - Baseline (side wall): D - Dead body

CC1 - Perpendicular distance between the head portion of the dead body and baseline measured at floor level.

BC - Distance between nearest fixed point and the perpendicular line.

B. Triangulation method : This method is particularly suitable for outdoor locations. Two or more fixed points should be located and they should be as widely separated as possible. The evidentiary item need not be very close to the fixed point but should be located by measuring along a straight line from the fixed points. The method is illustrated in figure 2.

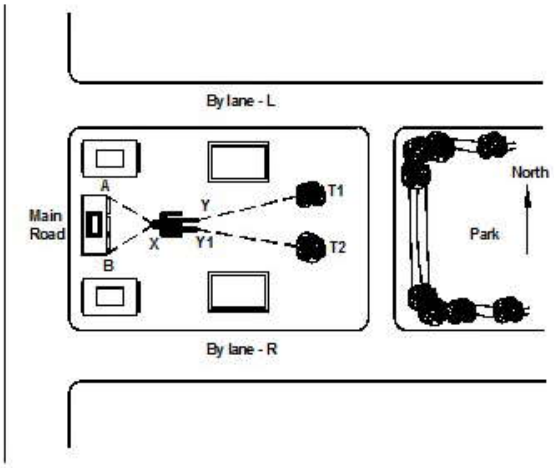


FIG.2: TRIANGULATION METHOD

AB - Two fixed points of the building

T1, T2 - Two trees

AX, BX - Distance between two fixed points to the head of deceased.

T1Y, T2Y1 - Distance between the two trees to the legs of deceased.

C. **Cross-projection method**: The cross-projection method of sketching is useful when the evidentiary items are on the ceiling, wall or elsewhere in an enclosed space. The walls, windows and doors in a cross projection sketch are drawn as though the walls are extended flat on the floor. The measurements are taken from any two wall corners or roof corners to the evidentiary item. This method is illustrated in Figure3

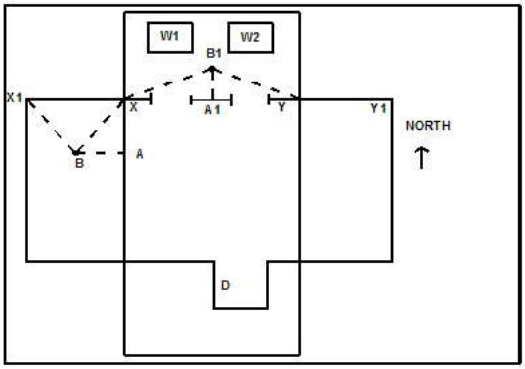


FIG.3 : CROSS PROJECTION METHOD

X,Y - Two fixed points on the ground

X1, Y1 - Two fixed points

B - Bullet Hole; B1- Blood stain

D - Door, W1,W2 - Windows

XB1, YB1 - Distance from two fixed points to blood stain

XB, X1B - Distance from two fixed points to bullet hole

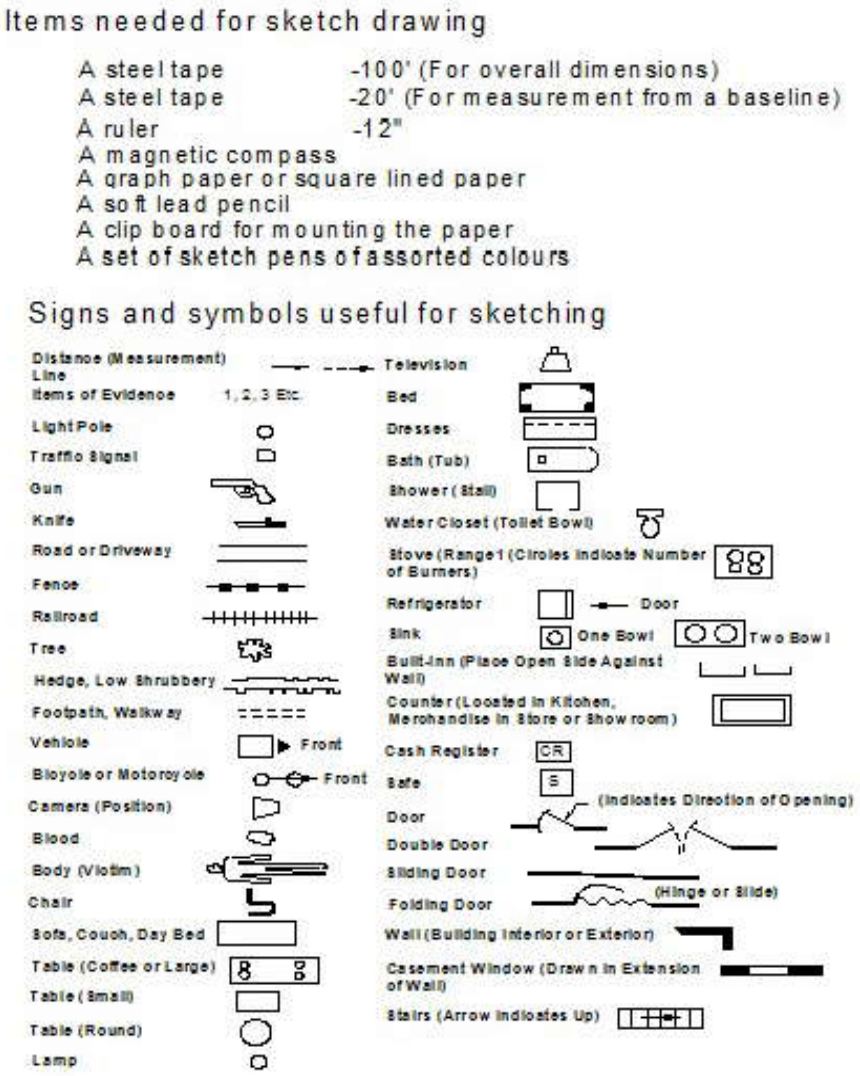
BA, B1 A1 - Perpendicular distances to the ground

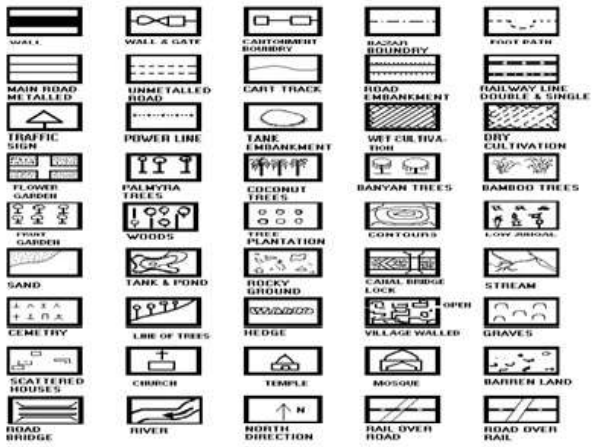
FIG.4 : Actual map used for spotting source, tourist, destination in organised crime, trafficking crime, Narcotic crime.

For example : If a person is trafficked from Kadiri of Anantapuramu, taken to Pune and later sold to a Bhivandi brother Indias map be used to depict the same.

Signs and symbols useful for sketching

6. The following items are needed for sketch





7. External wound sketch

1. The methods discussed above are used to record the position of various items of evidence including any deceased persons but do not include the position of wounds on the victim. To record wounds, an external wound sketch, may be used. A wound sketch showing a wound of a shooting victim with a bullet wound in the forehead is illustrated in figure 4. Different sketches given in the figure can be conveniently used for showing the position of the wounds on any part of the body of the victim.

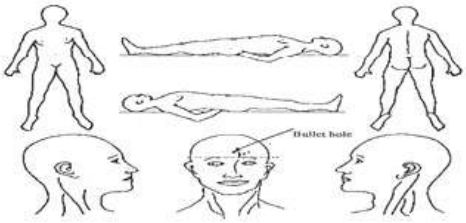


FIG.4 : EXTERNAL WOUND SKETCH METHOD

Crime Scene Observation Notes

422-1. The officer making the search should take down accurate and detailed notes, supported by accurate sketches drawn to scale, showing the whole layout and the exact places where the articles, etc. were found. It is not sufficient to say that an article was in a certain room or on a

particular table, but its exact position must be noted and, if necessary, an enlarged sketch of that portion of the scene must be drawn. In all-important cases, photographs, video graphs and where possible laser impressions should be taken of the scene and of the objects on which any useful clues are found.

2 The successful investigation of a case rests on the ability of the investigating officer to gather maximum information from various sources in a limited time in order to use it subsequently. The Police officer cannot easily and accurately recall past events for crime scene reconstruction or for court testimony after a lapse of time. Sometimes many seemingly unimportant details may prove to be of utmost utility as evidence and in the investigation process. Hence, the investigating officer should enter all details, observations, data, statements as and when they occur in his observation notes and case diaries and should personally get these sketches prepared taking fullest assistance of his team, scientific personnel and other experts. He should see that the team members work efficiently, professionally and cohesively. The need for observation notes arises at various stages of investigation and it serves the following purposes:

A. Future evaluation of evidence, preparation of charge sheet and deposition in the court. The courts and defense counsel may also demand the detailed notes and records maintained.

B. Photographs provide only a two-dimensional representation of the crime scene, whereas sketches are useful for fixing the location of various items at the scene. Other intricate details such as the colour, design, pattern, type, model, brand, serial number, etc. of the various items, which may be required for the investigation, can only be recorded in the observation notes.

C. Reports of scientific gadgets geo-spatial photographic mapping, CCTV footage etc. should be gathered and documented.

Guidelines for recording observation notes

3 A. Method of Recording : The notes should start with the time of receipt of first information. The notes can be recorded as and when the observations are made and need not be in sequence.

B. Date, time and location : The time and date of arrival at crime scene and the details of its location, environmental conditions (smoke, rain, dusk, dawn, etc.), the names of persons present at the scene on arrival, should be recorded. Photograph to the enclosed in the CD.

C. Description of the victim and clothing: The name, age, height, weight, complexion, colour of hair and eyes and, if possible, the date

of birth of the victim should be noted. Outer garments should be described in terms of type of garment and colour. Photograph to the enclosed in the CD.

D. Wounds on the victim: The exact location of a wound or injury, its type, size and in the case of a bruise, its colour.

E. General Description: Damage to items and any apparent disturbance of the normal arrangement of furniture or other objects and also the presence of objects that seem unusual in the context of the scene.

F. Recognition of each significant item of evidence: The description of each significant piece of evidence found or identified with special techniques with complete details, such as the time when it was found, the exact location, who found it, how it was marked, sealed and packed.

G. Missing items : The purpose of this entry is to note items that should have been normally associated with the crime being investigated, but which are absent at the crime scene or on the victims or deceased. For example, an item of clothing missing from the victim's body that could not be located at the scene of crime and which, if found later from the suspect or elsewhere, should be useful in linking evidence and suspector *vice-versa.*

H. Other important information: The condition of doors, windows, locks, wrist watches, clocks, water taps, electric lights, and other household gadgets as well should also be recorded carefully.

I. Miscellaneous: Any other details not included in photographs and sketches such as condition of surroundings, minute details on various items of evidence such as serial number, model, make of firearm, etc., should be recorded. The investigating officer can reorganize all these notes for preparing his case diary and charge sheet.

Searching the Crime Scene for Physical Evidence

423-1A. The primary purpose of inspecting the scene of crime is to search for any evidence left behind by the criminal while committing the crime. Such evidence will be invariably present in all scenes of crime is based on the principle of exchange propounded by Prof. Locard in 1928, which says" Whenever, any two objects or materials, animate or inanimate, come into contact with each other, there is always transference of material from each object on to the other". Such transference may be large or small, visible or invisible, detectable readily or difficult to detect, but such transference does occur. It is, therefore, the primary responsibility of Investigating Officers to search, identify and collect such evidence independently or with the assistance of 'CLUES' Team.

B. The crime scene is highly dynamic and is constantly undergoing change. It is also fragile, in the sense that the evidentiary value of the items it contains can be easily lost or downgraded. Usually there is only one opportunity to search the scene properly. Hence, making a good overall survey of the scene is quite essential.

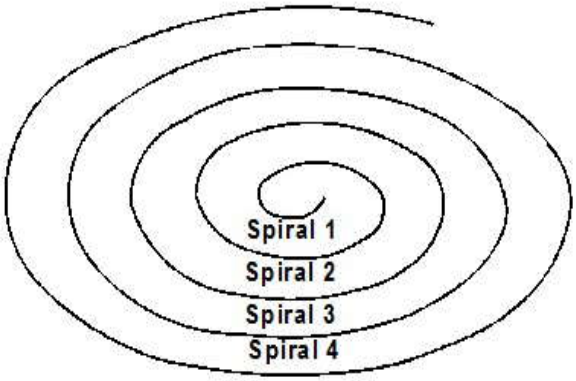
C. A competent search of a crime scene requires a thorough understanding of crime, its nature, and extent of damage, people aggrieved, property lost or damaged and the manner in which the offence was committed. All items should be searched with equal care and concentration. The search should be carried out carefully, avoiding unnecessary disturbance of the scene.

D. Based on the initial survey the investigator should first develop a hypothesis that will serve as the initial framework of the investigation. The hypothesis is simply a set of rational assumptions about how the crime was committed and the general sequence of acts that were involved. The hypothesis must be constantly reassessed in the light of each new fact or clue that is uncovered. There is often a tendency to arrive at unfounded assumptions. For example, if the Investigating Officer has substantial evidence that a murder was committed where the body was discovered, he may be tempted to ignore a fact or clue that does not fit the framework of that idea. Such inflexibility must always be avoided in the crime scene search. The Investigating Officer must be willing to modify or change altogether his initial ideas concerning any aspect of perpetration of crime. It is only through such a process of reassessment that the full value of the Investigating Officers experience can be realized.

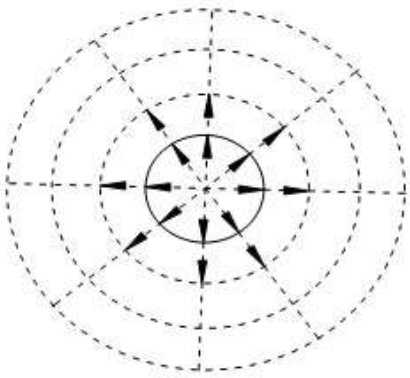
E. By the time an initial survey of the scene is completed, the investigator should have noted the obvious items of evidence to be collected, and decide in what order he will collect evidence, what should be searched for, and how the tasks and areas have to be divided. The methods of searching the crime scene for physical evidence is given below.

423.2 Search methods

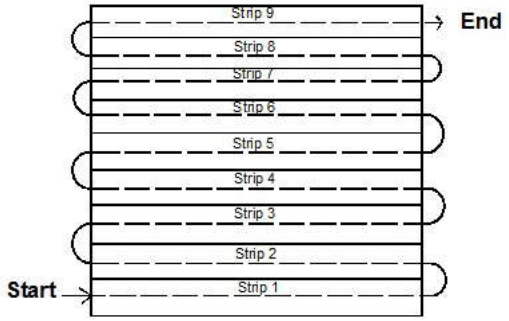
A. Spiral method: The search is conducted following a spiral pattern working from outside to inside towards the centre or focal point (towards the body, safe or any other key feature) or vice versa, either clockwise or anti clockwise. It is an effective search pattern for single person search, with a very high probability of locating minute evidence like fingerprints, footprints, etc. Also, there is not much likelihood of the evidence being destroyed by the investigator's movements.



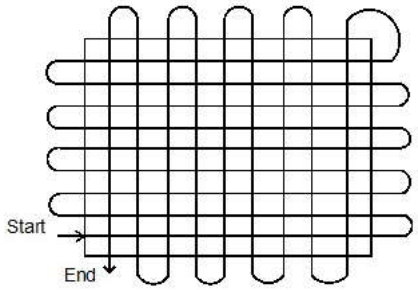
B. Radial method : In this method, the investigator works outward from the centre along the radial, and moves in circles of increasing circumference repeatedly. This method provides a double check on the searched area and is one of the best methods available for both indoor and outdoor searches. This method is preferred if more than one officer is conducting the search.



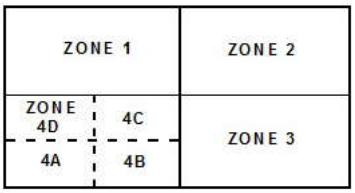
C. Strip method: This is a sector search, useful both for indoors and outdoors, in which the crime scene is divided into segments or strips. The method works well if the area to be searched is square or rectangular in shape with clearly marked boundaries. The search may be conducted by one or more officers depending on the size of the area and availability of officers.



D. Grid method : Grid method is a slight modification of the strip method. This method is useful for small areas especially indoors. The area is divided into grids. In this method a single person can search the entire area by moving at right angles, and covering all the squares of the grid.



E. Zone method: If the crime scene is large and enough personnel are not available, it is advisable to divide or sub divide the area into smaller zones and sub zones and use this method of search. The method is particularly useful for searching in details the enclosed areas where items such as almirahs, safes, etc. have to be carefully inspected, and for cars or carriages which may contain minute trace evidence, necessitating a thorough search of all nooks and corners.



424. Types of physical evidence normally encountered are as shown below :

Body fluids	Blood, semen, saliva, sweat, tears, milk, urine, faecal matter.
Body parts and body materials	Skull, flesh, teeth, bones, nails, and broken bone pieces, viscera materials preserved during autopsy.
Containers	Containers of powders, chemicals, drugs, poisons, narcotics, inflammable liquids, miscellaneous substances including glass, plastic, tin, phials, bottles, cans, drums, gunny bags, and any other enclosed articles.
Documents	Papers, books, cheques, receipt, counterfoils, bills, files, carbon papers, letter pads, writing materials viz., pens, ink, seals, stamps and their impressions, photocopies, negative and positive photos etc.
Explosives	Remnants of an explosion, springs, wires, timing devices, chemicals, stones, cotton, paper, fillers, residual and unexploded portions of explosives, explosive devices
Fibres	Natural or synthetic fibres adhering to clothes, upholstery, seat covers, drapery, or any other articles.
Fingerprints	Fingerprints - latent, visible, semi-visible
Foot prints	Footprints - cast, lifted.
Fire, arson	Burnt remains, inflammable materials, fire remnants and burnt remnants accelerants, other arson related articles.
Firearms	Firearms - country made, factory made
Ammunition	Live-cartridges, empty cartridge cases, bullets, pellets, wads, gunpowder, discharge residues from hand, etc.,
Glass	Fragments, pieces, sheets, bangles, articles.
Hair	Animal or human hair.
Impressions	Impression metals Serial numbers on metals - cast, engraved, etched or punched. Other marks on metallic parts, filed, erased, stamped, etc. Impressions not included in any other category such as type writer impressions, shoe prints, glove impressions, tooth impressions, fabric impressions, bite-mark impressions, lip impressions, etc.
Soil and dust	Soil, dust, debris, mud, dirt, occupational dust in the form of stains, lumps, particles, powder, etc.
Tools & Implements	Razor blades, penknives, screwdrivers, hammers, punches, files, engravers, needles, crowbars, hacksaws, cutting pliers, sickles, spades, axes, swords, and any other sharp metallic house hold or industrial implements.
Tool marks	Cut marks, shear marks, punching marks, levering marks, file marks, chisel marks, drill marks, struck marks, depressed marks.
Wood & vegetable matter	Any fragments of wood, sawdust, or any on clothing, shoes, tools, body etc., and materials like seeds, bark, leaves, etc.
Miscellaneous	Stains, impressions, prints, articles or other materials that is likely to link the crime or criminal with the victim or scene of crime.

Instructions for lifting, packing and forwarding physical evidence.

425-1A. Physical evidence should be described in detail with full information as to when and where such evidence was found; who found it, handled it and how it was disposed.

B. Each item should be packed separately so as to avoid breakage, loss or contamination in transit.

C. Tweezers, forceps and similar tools are used to collect and place traces and small items into containers. It is advisable to use rubber gloves to handle such physical evidence.

D. An "evidence box" such as deal wood box, clean empty cartons, cardboard boxes, etc. should be utilised for transporting the items of evidence. An evidence box with pegboard sides allows for tying or wiring small and medium sized objects in place. A series of drilled holes and appropriately sized clamps can serve the same purpose.

E. Items of evidence that need comparative analysis for possible commonness of origin should be packed in separate containers to avoid any allegation of cross contamination.

F. Thoroughly clean and dry containers, wrapping paper, corrugated paper boxes and sealing tape are the basic safeguards for physical evidence in transport. No wet or solid materials or boxes should be used.

G. Documentary evidence should be first placed in transparent envelopes without folding or bending, and then placed between two pieces of rigid cardboard and packed in a suitable cloth-lined envelope cover.

H. Plastic pill bottles such as used medicine containers with lids are unbreakable and can be easily sealed with tape. They make excellent containers for hair, fibres, and other small trace evidence. They are ideal for spent bullets, empty cartridge cases, and cartridges because they can be packed with absorbent cotton to minimise movement. Plastic envelopes and bags are suitable for packing many materials. However, in case of soil, debris or clothing impregnated with bloodstains, this may result in bacterial action contaminating the blood sample, and should be avoided.

I. If the stain is on a solid object that can be moved, such as a knife, crowbar, fire arm or any other weapon, it is preferable to transport the whole object, protecting the area of the stain or completely enclosing the object in a package (if it is small enough).

J. If the stain is on clothing, the garments should be wrapped separately in paper, marked appropriately and packed. This is better than any other technique such as scraping for forwarding a movable sample of the stain for analysis. Garments and other clothing such as bed sheets,

towels, tablecloths and similar evidence should be folded as small as possible and without pressure. The specific areas of such fabric which contain trace evidence should be folded in such a way as to protect such areas to avoid loss of such materials by falling off, peeling off, etc.

K. It is preferable to send a soil-stained or mud-soaked object to the laboratory rather than to attempt to remove and send the soil or mud as separate items. When such traces are picked up as individual items of evidence, it is vital that every precaution is taken to keep the evidence in separate sealed containers to avoid any accidental loss or mixing in transit.

L. Bed sheets, carpets, woollen materials from the scene of arson may be wrapped in metal foil and sealed in airtight containers. Smaller objects, such as paper and rags or solid samples should be sealed in the container in which they were found or placed in airtight bottles or cans. This protects the fire accelerants and their residues from evaporation.

M. Pills and other non-caustic substances should be left in their original containers for transport to the laboratory. Such containers often contain useful information. The investigating officer should count the number of pills and capsules or accurately determine the bulk quantity of fluids or powders and should include such data in observation notes. Caustic or corrosive poisons should not be transported until their safe transit is ensured by suitable means. Appropriate containers such as glass bottles with a glass lid should be used for transporting substances such as acids.

N. Food and edible substances should be placed in as many separate moisture proof bottles or containers as necessary to avoid any contamination. In case of suspected food poisoning the packages should be marked clearly as suspected or known samples of poison.

O. Trace evidence, such as hair, fibres, etc. should be sealed in folded paper or placed in clean, sealed envelopes.

P. Adequate and appropriate samples should be collected. Bulky articles, samples in huge quantities e.g., cots, mattress, flooring stones, a drum of petrol or diesel oil, etc. or articles unconnected with the case should not be sent.

Q. Tag or mark all the articles. If the articles can be enclosed, put a mark on the container or the box. If special handling is required, it must be indicated and specific instructions provided on the packing itself, e.g., material is fragile or perishable.

R. Indicate any special priority that should be given to the case.

S. Notify the laboratory, if the case is associated with any previous submission or evidence.

T. Always obtain a signed receipt whenever, evidence is transferred (chain of custody) from place to place or person to person.

U. All evidence should be forwarded or received only in a sealed condition.

V. Label, initial and seal all envelopes and the packages without fail. The seal should be legible and intact and all knots of stitching ropes must be sealed.

W. Ensure prompt delivery of all items of interest to the laboratory.

X. Record all the procedures adopted for location, recording, lifting, packing and forwarding, in case diaries.

Y. Wherever, feasible, it is advisable to bring the physical evidence in person and discuss the circumstances and history of the case so that the scientist will endeavour to bring out the right information from the scientific studies.

2. A table indicating the method of collection, packing, and preservation and forwarding different types of samples is given in the Chapter 31 "Scientific Aids to investigation". The Investigating Officers are advised to contact the nearest RFSL for getting the information with regard to unusual types of material objects.

Chain of custody of physical evidence

426-1. Continuity of possession or the chain of custody of evidence is an important aspect whenever, evidence is collected, until it is presented in the court as an exhibit. The chain of custody assures continuous accountability. If it is not properly maintained, an item may become inadmissible in the court. Failure to substantiate the chain of custody may lead to serious questions regarding the authenticity and integrity of the evidence and the examination rendered upon it, making the whole process as an exercise in futility. There are cases where failure to mark the items for subsequent identification in the court of law has resulted in the acquittal of the accused. Similarly, failure to account for certain items during a certain period or with a particular agency such as court, laboratory, police station, etc., at a particular time results in inadmissibility of the evidence itself.

2. The Investigating Officer after receiving the complaint and reaching the Scene of Crime having made preliminary observations should fill the Crime Scene Investigation and Physical Evidence retrieval report

given in the Chapter 31 "Scientific Aids to investigation". The form should also contain details of the condition of the person/body in case of wounded and deceased persons found at the scene of crime. Physical evidence retrieved and the controls seized/recovered from various sources should be properly recorded in the form.

426.3 Letter of Advice

R.Dis.No. 826/C2/62, Dated : 10.04.1962 of DGP AP

All material objects forwarded to the expert should be accompanied by a letter of advice in Form 54. A copy of the forwarding letter should invariably be enclosed in the parcels, so that exhibits can be connected with the relevant case.

Letter of Advice – Supplementary Information

4. In poisoning cases, supplementary information in Form 55 should be sent with the letter of advice. Omission to supply the essential supplementary information leads to unnecessary correspondence and delay in the disposal of the case. Background of the subjects in polygraph cases, method of collection, preservation etc. in DNA cases, and other relevant case history in sensational cases is essential for deciding the analytical sequence.

Forwarding Authority and Time period for forwarding the samples

5. Physical Evidence can be forwarded for examination, to concerned experts by investigating officers through the judicial magistrates having jurisdiction informing the SDPOs etc. Physical evidence should be forwarded at the earliest to FSL Head Quarters or to RFSLs/DFSLs as the case may be. In case of delay over one month, a D.O letter from the concerned Head of District/City Police should be sent.

CHAPTER – 23

Collection of Oral Evidence

(Sec 59, 60 of Indian Evidence Act, 1872)

427-A Collection of Evidence in Rape cases:

The statement of a woman against whom an offence under section 354, 354-A to 354-D, 376,376-A to 376-E, 509 of IPC is alleged to have been committed or attempted; shall be recorded, by a Woman Police Officer or any woman officer (section 161 (3) Cr. PC. (Act 13 of 2013 dt. 2-4-2013) Facts that (i) could be seen (ii) could be heard and could be perceived are elicited.

Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of victim or in the place of her choice and as far as practicable by woman police officer in the presence of parents or guardian or near relative or social worker of the locality [section 157 (1) Cr. PC – Act 5 of 2009 dt. 7-1-2009.]

SHO shall not call any male person under the age of 15 years or above the age of 65 years, or a woman or mentally or physically disabled person to attend at any place other than the place in which such male person or woman resides [section 160 (1) Cr. PC. SHO is liable to be punished u/s 166-A IPC for disobedience of the instructions.

427-B. Recording of statement u/s 161 Cr.PC :

While recording the oral evidence of a witness u/s 161 Cr. PC a police officer must ensure whether the evidence refers to a fact which could be seen, which could be heard or which could be perceived(Sec.60 of Evidence Act). If such oral evidence refers to an opinion, police officer should record the ground. Such Statement in important cases should be recorded by audio-video electronic means u/s 161(3) Cr. PC. (Act 5 of 2009 dt: 07.01.2009). A Police Officer should record the statements individually and separately in verbatim. Telugu language has to be used as per G.O. Ms No. 485, (Home Dept) dt: 29.03.1974. There should be no delay in recording the statements of witnesses. He may record substance of the statements in the Case Diary part-I . When investigation is taken up by another Police Officer either due to transfer/due to administrative exigency, he should re-examine the witnesses in detail re-record the statements in detail, if need be. The statement recorded by police can be used for contradicting a prosecution witness in the manner indicated in Sec. 145 of Evidence Act.

427-1. The investigating officer is empowered u/s 161 Cr PC to examine orally any person (including a suspect) who is likely to be acquainted with the facts and circumstances of the case. He may reduce to writing the statement of each such person, and when he does so, he shall make a separate record of each such person whose statement he records. The person so examined shall be bound to answer all questions relating to such case put to him, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

2. In order to examine a witness, the investigating officer should, as far as possible, contact him at his place, but may, if necessary, require the attendance before himself, of any person being in the limits of his own or adjoining police station. If a person so called intentionally fails to attend in spite of a written order served on him, he is liable to be prosecuted under section 174 IPC.(For others please see PSO 427-A)

3. When a police officer finds it necessary for the purpose of any police investigation to require any employee of any essential services such as railways, roadways, water supply and electricity, medical, civil supplies to leave his duties or otherwise to detain such employee from his duties, he shall give previous notice of the fact to the official concerned in order that the latter may take steps to replace the employee, and shall, at the same time, take all necessary measures to ensure that the object of the investigation is not thereby defeated.

4. The following classes of public servants of the essential services actually on duty at the time, shall not be required to leave their duty until they have been replaced.

A. **Railways**: (A) Station Masters and Assistant Station Masters (B) Cabin and lever-men (C) Signallers (D) Points men and Key men (E) Patrolmen (F) Individual gang men posted to show caution signals at weak bridges or other points requiring cautious working. (G) Shunting staff (H) Watchmen (I) Gatemen in-charge of level crossings (J) The actual running staff of train (Guards and Engine drivers) (K) More than half a gang of engineering gang men.

B. **Roadways:** Drivers and Conductors.

C. In respect of other services like Water Works and Sewerage, Electricity, Major Projects, those employees whose absence would jeopardize public safety, health, supply of essential commodities or result in damage to the installations.

Admission of police officers to visit jails / Prism on duty :

428-1. The rules regulating admission of Police Officers to visit jails lay down that;

A. G.O.Ms. No. 1200 and 1201 Home (Pri. B) dated 19-6-1961.

Any police officer of a rank not lower than an Inspector shall, for any purpose connected with the discharge of his duty as such police officer be permitted to enter the jail at any time between unlocking in the morning and lock up in the evening.

B. He will be permitted to interview the prisoners only on a letter of authority to the Jail Superintendent from SP or superior Officers or District Magistrate. He may take other Police Officers and witnesses or informers with him for assistance.

C. Police officers of lower rank than an Inspector in uniform are permitted to enter the jail for the purpose of recognizing old offenders.

D. Any interview permitted as above shall take place in the presence of the Jailer or other proper officer of the jail, who shall, if required to do so, keep at such a distance that he may not hear the conversation that takes place.

E. The Superintendent of the Jail shall, produce any prisoner in his charge whom the police are authorized to interview and shall afford every reasonable facility for this purpose.

2. In case of remand of prisoners, no police officer shall be permitted, except under the authority and in the presence of a Magistrate, to enter a Sub-Jail /Jail for the purpose of interviewing or communicating with them.

Recording of statements of witnesses by an Investigating officer:

429-1. Though a Police Officer is not bound to record the statement of witnesses as he examines them during the course of investigation, in terms of section 161(3) of Cr.PC it is desirable to reduce to writing the statements of all witnesses who are acquainted with the facts and circumstances of the case on the spot and who may have to be cited in the court as witnesses. The statement of each witness should be recorded separately, in direct form and as far as possible in his own language and with the full version of what he states. Section 173(5) of Cr.PC lays down a statutory obligation on the prosecution to furnish to the accused, copies of statements recorded under 161(3) of Cr.PC of all persons whom the Prosecution proposes to examine as its witnesses, before the commencement of inquiry. Hence, sections 161(3) and 173(5) Cr.PC clearly indicate that separate statements of

all persons whom the prosecution proposes to examine as its witnesses should be recorded and copies thereof must be furnished to the accused before the commencement of the inquiry. These are mandatory provisions for compliance. Investigating Officer can also record evidence through audio-video electronic means and submit it to the Court. This method will ensure "verbatim evidence" as spoken by the witness and preclude such witness from turning hostile.

2. The Case Diary is intended for recording such particulars as, the action taken by the investigating officer, the places where he went, the people he visited and the things he saw. The detailed statements of witnesses examined need not be written in the Case Diary Part I. It is a privileged document and is covered by sub-section (2) of Section 172 of Cr.PC. But statements of witnesses if recorded in the case diary are covered by sections 161 and 162 of Cr.PC. and the privilege assigned to the case diary does not extend to the statements of the witnesses recorded therein. Hence, the diary should be written in two distinct parts in the prescribed forms, one for recording the particulars mentioned in section 172 (1) of Cr.PC and the other for recording the statements under section 161 of Cr.PC which should be in a separate part and serially numbered. Details of case diary are discussed in Chapter 27.

3. It is important and necessary for an investigating officer to record the statement of an accused person, more so, if it contains lengthy details in a complicated case, so that these details may not be forgotten or overlooked in the course of enquiries for their verification. The statement may sometimes disclose his line of defence and may also at times indicate sources from which independent evidence may be available and provide clues for further investigation. Verification of all details given by the accused is a vital exercise in investigation and should be diligently done and entered in Case Diary from day to day. Recording of statements of witnesses / Confession of accused by the court during investigation u/s 164 Cr.PC (u/s 306 Cr. PC and 265-B (1) – Plea bargaining) in under investigation/pending trial cases required close monitoring.

Dying declaration

SHO to refer Rule 33 of Criminal Rules of Practice and Circular Orders 1990 of Hon'ble High court AP, while recording dying declaration.

430-1. The statement written or verbal of relevant facts given by a dying person is called dying declaration in IEA Sec. 32. Evidence of dying declaration is admissible not only against the person actually causing death but also against other persons participating in causing death

(Sant Gopal vs. State of U.P 1995 Cr L.J. 312) Whether the statement is given expecting death or not, it is valid.

Principle :

Principle - Under this section written or verbal statements of relevant facts made by a person -

(a) who is dead ;

(b) who cannot be found ;

(c) who has become incapable of giving evidence ; or

(d) whose attendance cannot be procured without reasonable delay or expense; are relevant under the following circumstances -

(1) When it relates to the cause of his death.

(2) When it is made in the course of business, such as, entry in books, or acknowledgement or the receipt of any property, or date of a document.

(3) When it is against the pecuniary or proprietary interest of the person making it or when it would have exposed him to a criminal prosecution or to a suit for damages

(4) When it gives opinion as to a public right or custom or matters of general interest and it was made before any controversy as to such right or custom has arisen.

(5) When it relates to the existence of any relationship between persons as to whose relationship the maker had special means of knowledge and was made before the question in dispute arose.

(6) When it relates to the existence of any relationship between persons deceased and is made in any will or deed or family pedigree, or upon any tombstone on family portrait, and was made before the question in dispute arose.

(7) When it is contained in any deed, will or other document.

(8) When it is made by a number of persons and expresses feelings relevant to the matter in question.

2. The declaration may be recorded by any person, but it should preferably be recorded by a Magistrate, if readily available. Where this is not practicable, the doctor or if he is not available the investigating officer may record it, preferably in the presence of a witness. Even if the declaration is made to a police officer, it is admissible in evidence and its use is not barred by section 162 of the Cr.P.C. Even if it has been made orally in the presence of any person, it may be proved in court

by the oral evidence of that person. The declaration becomes admissible, only if the declarant subsequently dies. If he survives, it will be useful, if made before a Magistrate or anyone other than a police officer, to corroborate his oral evidence as a witness in court. If it was made before a police officer, it will be treated as a statement u/s 161 Cr.P.C.

3. The declaration must, as far as possible, be complete by itself. The person making the declaration must be speaking from personal knowledge of the facts. If reduced to writing, the declaration should be in the form of questions and answers and in the very words of the declarant. The signature of the declarant should invariably be taken on the dying declaration wherever, possible. If the declarant is an illiterate or is incapacitated from signing for any reason, his thumb impression should be taken. When a declarant dies while giving a statement, the declaration is valid even though he does not put his signature or thumb impression. A note should be made in the dying declaration giving reasons why the signature of the declarant was not taken.

4. When the declarant, being in a serious condition and unable to speak, makes signs by hand or head, the person recording the dying declaration must record the precise nature of the signs which the declarant made.

5. Before taking down the declaration the persons recording the dying declaration should also ask the declarant whether he is mentally capable of making a declaration. He should obtain whenever possible a certificate from the Medical Officer as to the mental condition of the declarant.

6. Incomplete dying declarations are not by themselves inadmissible in law. Though a dying declaration is incomplete by reason of the deceased not being able to answer further questions in his condition then, yet the statement to that extent is admissible provided it is proved he has given it consciously and the statement is not vague.

7. An FIR can also be a dying declaration.

Recording of statements of witnesses and confessions of accused by a Magistrate

G.O.Ms.No.115, Home (Police-F) Dept, dt.25-4-2002 of AP

431-1. In important cases, witnesses may be produced before Judicial Magistrate; competent to record such statements under section 164 Cr.P.C. Such statements can be used to contradict the statements given by the same person during the course of enquiry or trial. If he retracts later he can be prosecuted for giving false evidence.

2. If an accused person, on being arrested, expresses his willingness to make confession, his confession may be got recorded under section 164 of Cr.PC by the competent Magistrate. As far as possible he must be taken before a magistrate other than the one who has jurisdiction to try the case.

Confessional statements made to the police

432. Though confession made to police officers are inadmissible, under section 27 of Indian Evidence Act, if a statement is given by an accused to a police officer while in custody and that statement reveals the discovery of any material fact and in consequence of that statement if that material fact is discovered, that statement is admissible to the extent of such discovery. The confession should be recorded in a free atmosphere in the same language in which the person is examined and as narrated by him. Such confessions should be recorded only by the competent and authorized police officers and should be sent forthwith to the Chief Metropolitan Magistrate or Chief Judicial Magistrate having jurisdiction over the area in which such confession has been recorded. The person from whom a confession has been recorded shall also be produced before Chief Judicial Magistrate/Chief Metropolitan Magistrate along with the original statement of confession written or recorded on mechanical device without unreasonable delay.

Panchanamas of property recovered as a result of the confession made to the police

433-1. As soon as it appears to the investigating officer that an accused is likely to make a confession leading to the discovery of a fact, the investigating officer should secure the presence of two respectable and independent witnesses of the locality and in their presence record the confessional statement himself, obtaining the signatures of the witnesses on the record. Stock witnesses or those who figure as panch witnesses in previous cases should not be taken. If it is not possible to secure the presence of witnesses, the investigating officer should himself record the confessional statement and afterwards when he is able to secure the presence of witnesses, he should read over the statement to the accused before the witnesses and, if it is agreed to by the accused as correct, note this fact on the record and obtain the signatures of the witnesses on it. The statement of the accused should be in the first person and in the very words of the accused. When a discovery is made as the result of the statement of the accused, a separate panchanama should be drawn up for the discovery. Giving information and recovery that follows it are two different transactions and a separate *panch*anama should be recorded for each of them. The information given by an accused person should not be mixed up

in the *panch*anama drawn up for the recovery made in consequence of such information. It is the information given by an accused person that determines his knowledge about that fact discovered and that has a direct bearing on his guilt.

2. When one of several accused persons who have taken part in an act, for example, the burial of property at a certain place, offers to point out the place and the property is found in consequence, his confessional statement is relevant against him under section 27 of the Indian Evidence Act. But if other accused persons suspected to have taken part in burying the property at the place also give the same information subsequently the discovery cannot be attributed to second person. These confessional statements cannot be said to have led to the discovery of the property which has already been discovered and are not, therefore, relevant under that section. Though there is nothing objectionable in the investigating officer trying to see for his moral satisfaction whether such persons point out the same place as the one previously shown by one of them, no attempt should be made to utilise that evidence against subsequent persons. If two or more accused give statements under section 27 of Evidence Act, simultaneously, it is inadmissible, as it cannot be attributed to any single person.

3. Where the place of recovery is a public place accessible to all and sundry a discovery from such a place cannot entirely be attributed to the exclusive knowledge of the accused and therefore, much reliance cannot be placed.

4. The accused must be in the custody of Police for a confession to come under purview of section 27 of Evidence Act. Even a man released on bail and giving information leading to discovery of a fact can be deemed to be in Police custody within the meaning of section 27. Arrest and custody are not synonymous. A person can be in custody without being formally arrested.

Tendering of pardon

434-1. In cases where it is otherwise impossible to establish the guilt of the accused from other evidence, conditional pardon can be tendered to an accomplice in a crime with a view to securing the evidence of such a person and bringing home the guilt of the other accused. Examples of a dacoity committed by five or more persons but one of them is ready to give evidence. A murder committed in a remote area where no witness is available to testify, but one of the accomplices is ready to testify.

2. Tender of pardon can be given in the following cases (Sec. 306. Cr.PC)

   A. All offences triable by Sessions court

   B. Offences under Prevention of Corruption Act

   C. Offences which are punishable with 7 years or more

3. Tender of pardon is given where the investigation has to establish the guilt of the accused by independent evidence. In such cases participant who played a minor role with offence is taken into confidence with a view to prove the case against the other accused. The accused to whom the tender of pardon is granted is an accomplice witness

4. The pardon tendered to a person under section 306/307 of Cr.P.C., as already stated, is conditional that he should make a true and full disclosure of the whole of the circumstances within his knowledge relating to the offence. If such person either wilfully conceals anything essential or gives false evidence and thus does not comply with the conditions on which the pardon was tendered, he may be tried later for the offence in respect of which the pardon was tendered.

5. During the course of investigation the Chief Judicial Magistrate and during the course of enquiry or trial the presiding magistrate or judge are competent to grant pardon.

CHAPTER -24

Search, Seizure, Collection of Documentary Evidence, Property and Material Objects-Legal powers of Investigating Officers

435. SEARCH/SEIZURE

Criminal Procedure Code :

***Sections* :**

47 : Search of place entered by person sought to be arrested.

51 : Search of arrested person.

52 : Power to seize offensive weapons. (from arrested person)

93 : When search-warrant may be issued. (Advisable to take it when police go to other states)

94 : Search of place suspected to contain stolen property, forged documents, etc.

95 : Power to declare certain publications forfeited and to issue Search warrants for the same

97 : Search for persons wrongfully confined.

98 : Power to compel restoration of abducted females.

99 : Directions, etc., of search warrants.

100 : Persons in charge of closed place to allow search.

101 : Disposal of things found in search beyond jurisdiction.

102 : Power of police officer to seize certain property.

Case law :

The bank account of the accused or any of his relations is 'property' within the meaning of Sec. 102 Cr. PC and a police officer in course of investigation can seize or prohibit the operation of the said account, if such assets have direct links with the commission of the offence for which the police officer is investigating into. (*State of Maharashtra v. Tapas D.Neogy, (1999) 7 SCC 685: 1999 (8) Supreme 149: 1999 Cr. LJ 4305*.)

103 : Magistrate may direct search in his presence.

153 : Inspection of weights and measures:-

If he(officer-in-charge of a Police station) finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

157 : Procedure for investigation.(…if necessary, to take measures for the discovery and arrest of the offender.

165 : Search by Police Officer, due procedure to be followed.

The pre-requisites for a search are as follows :-

1) Search is a necessary condition for investigation.
2) Before making search the provisions of Sec.100 Cr.PC shall be complied with.
3) Search must be conducted in the presence of two or more independent and respectable inhabitants of the locality. If no such inhabitants of the locality are available or willing to be witnesses, the services of any other person or persons of any other locality can be requisitioned. In such situations, the reasons are to be recorded.
4) If the Station House officer is unable to make a search in person, he may authorize any subordinate officer in writing to carry out the search.
5) A search list shall be prepared and a copy of it shall be furnished free of cost to the occupant or his agent.
6) The offence must be such as the police officer is authorized to investigate a cognizable offence.
7) Reasonable grounds must exist for believing that the things required will be found in that place.
8) Grounds of belief as to necessity of search must be previously recorded.
9) The article for search must be specified, as far as possible, in the record.

(*Kher Singh vs. Union of India, AIR 2002 SC 145: 2002 Cr.LJ 1832). Relevant Cr.PC Section*

166 : When officer in charge of Police station may require another officer to issue Search Warrant.

457 : Procedure by police upon seizure of property.

458 : Procedure where no claimant appears within six months.(for seized property).

459 : Power to sell perishable property (Seized)

I.P.C : Sec.206 : Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution(Non-cognizable, bailable)

Sec.207 : Fraudulent claim to property to prevent its seizure as forfeited or in execution:- (Non-cognizable, bailable)

435 A

Case laws on Search & seizure	
A Police officer before searching should record the reasons, in writing, about the grounds of his belief. Recording of reasons is obligatory.	Case law u/s 164 & 165 Cr.PC 1960 Cr.LJ 286 (SC)
A Police officer making an investigation into any offence to conduct search without a warrant …….	Case law u/s 165 Cr.PC Kher Singh vs. Union of India, Air 2002 SC 1450 : 2002 Cr.LJ 1832.
No provision in the Passport Act enabling the police to seize the Passport. However, u/s 165 Cr.PC, the Police officer has power to seize the passport while investigating into an offence under the warrant cases (punishable with imprisonment more than 2 years) to control the movement of the person alleged to have participated in the offence….	Case law u/s 164 Cr.PC Hamida Habib Jeelani v. Secretary to Govt. Home Dept., 1996 Cr.LJ 1086 (AP): 1996 (1) ALD 414 (DB).
Where no attempt was made to join independent and respectable witnesses of the locality accused was acquitted giving benefit of doubt.	Case law u/s 100 Cr.PC Sahib Singh v. State of Punjab, 1996(6) Supreme 774: 1996(3) Crimes 284(SC). Also Balbir Singh v. State,(1996)11 SCC 139: 1997 SCC(Crl)134.
A provision as to respectable panch witnesses of locality is not mandatory and if such qualification is not there it is a mere irregularity and not illegality. It is a healthy practice, which leads to cleaner investigation that search be made in the presence of independent witness of locality.	Case law u/s 100 Cr.PC Kaur Sain vs. State of Punjab, AIR 1974 SC 329: 1974 Cr.LJ 358.
It is a healthy practice, which leads to cleaner investigation that search be made in the presence of independent witness of locality.	Case law u/s 100 Cr.PC Bhagwanbhai Dulebhai Jakhar v. State of Maharashtra, 1963 (2) Cr.LJ 694(SC).

Procedure	Sections
Search	165 Cr.PC r/w 100 Cr.PC
Seizure	165 Cr.PC r/w 102 Cr.PC
Documentary evidence	62/65 Evidence Act
Electronic Evidence	65-A/65-B Evidence Act
Handwriting	311-A Cr.PC.

Directions to produce a document or thing

435 -1. Whenever, any Officer-in-charge of a Police Station or Officer entrusted with the investigation of a case considers that the production of any document or other thing is necessary for the purpose of investigation, such Officer may issue a written requisition to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it or cause to produce it at a time and place stated in the order (Section 91 of Cr. PC).

2. If the statement of the person in whose possession the document or thing is to be recorded, he should be directed to appear in person and produce such document or thing. If his statement is unnecessary, such person can be asked to cause the document or thing produced on his behalf by any other person.

3. If the document or thing is in the possession of an accused, an order for its production shall not be issued as it contravenes clause (iii) of Article 20 of the Constitution of India. It should be seized after conducting a search of a place where such document or thing is kept.

436-1. For documents required from bankers, the procedure given in **Bankers Books Evidence Act 1891** should be followed.

2. According to section 4 of Bankers Books Evidence Act 1891 a certified copy (with prescribed certificate at the end) of any entry in a bankers book shall in all legal proceedings be received as prima facie evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein.

3. In cases where bank employees are involved in offences like misappropriation, forgery etc., or other bank frauds, financial or any other offences, the original records are required for examination by the handwriting expert. The relevant original records may be requisitioned by making out copies. The copies so made can be retained by them for banking purposes. Where the examination by hand writing expert is not needed, and the records are required only for investigation, requisition should be confined to certified copies of entries which are admissible as *prima facie* evidence.

4. Section 8 of the Bankers Book Evidence Act 1891 authorizes the officers not below the rank of Superintendent of Police specified by the Government under this section to requisition records or entries which are needed for investigation into any offence. This requisition should be in Form 56.

Procedure regarding articles/documents in the custody of Postal or Telecom Departments both Private and Government.

437-1. If any document, letter, telegram, parcel or thing in the custody of Postal or Telegraph authorities is required, for the purpose of investigation, the Investigating Officer shall make an application to the District Magistrate or Chief Judicial Magistrate or Court of Session, and request for orders to the Postal or Telegraph authorities to deliver such document, letter, telegram, parcel or thing to the Investigating Officer (Section 92(1) of CrPC). The reference to Posts and Telegraphs authorities in this section may be interpreted to include Bharat Sanchar Nigam Limited (BSNL) and any other basic telephone (including WiLL) service provider or cellular operator whether Private or Government.

2. If any such document, parcel or thing, in the possession of Postal or BSNL authorities in the opinion of Commissioner of Police or Superintendent of Police, is wanted for the purposes of investigation, he may request the concerned, to trace and detain such document, parcel or thing, pending the orders from the District Magistrate or Chief Judicial Magistrate as mentioned in the sub-order (1) (Section 92(2) of CrPC).

3. Instructions in the P&T Manual 1982, volume V regarding production of records in the custody of the post office are reproduced below:

Production of records before police or excise officer

4. Records of a Post Office or mail office should be produced, and information available in them should be given on the written order of any Police Officer who is making an investigation under Chapter XII Cr. PC, or of any Excise Officer empowered by a local government or administration to investigate offences under any Excise Act, but only those entries in the records should be disclosed which relate to the person or persons charged with the offence under investigation or which are relevant to that offence. In any other case, the official in-charge of the office should, without delay, refer for orders to the Head of the Circle, who will decide whether u/s 124 of the IE Act, the information asked for should be withheld or not.

Note 1 : This rule does not authorize the Post Office to hand over the records unless an order under section 95 of CrPC is obtained by the Police Officer from the District Magistrate, Chief Metropolitan Magistrate, Court of Sessions or High Court.

Note 2 : The Inspector General, Delhi Police-Special Establishment and his staff are authorized by law to inspect all official and secret records during a preliminary enquiry and also at subsequent stages.

All records required by them for the purpose of investigation for production in court, except those in the custody of Audit Officers, should be made available to them.

5. When the information asked for by a Police or an Excise Officer is not available in the records of the Office concerned, the Police or the Excise Officer should be informed accordingly, irrespective of the question whether the information, if available, might or might not be given.

Inspection of Records of Criminal Courts by the Police :

438. Rules 204 to 208 of the Criminal Rules of practice issued by the High Court of Andhra Pradesh during 1990 for inspection of Records of Criminal Courts are reproduced below for guidance of Police Officers:

1. ***Rule 204*: Inspection by Officers of the Police or the Excise Department and Public Prosecutor:** Whenever, it appears to any officer of the police or the Excise Department not below the rank of Sub-Inspector, that an inspection of the records of any criminal trial or appeal will facilitate detection or prevention of any crime or it is desired for examination of the conduct of Officers connected with the case or whenever, the inspection of such records is desired by the Public Prosecutor or Assistant Public Prosecutor, in the exercise of his duty as such Officer or Prosecutor as the case may be, he may apply to the Sessions Judge or Presiding Officer of the Court in which the records are lodged for permission to inspect the same.

2. ***Rule 205*: Procedure on application:** The application referred to in the preceding rule shall be made in writing and shall contain a description of the records and shall state the purpose for which the inspection is sought, and the Sessions Judge or Magistrate may grant or refuse the application, recording the reasons for refusal and shall communicate a copy thereof to the Officer concerned, or to the Public Prosecutor, as the case may be. If the application is granted, the Sessions Judge or Magistrate shall make arrangements for permitting the inspection to be conducted in accordance with Rule 206.

3. ***Rule 206*: Conduct of Inspection:** Every inspection of records under these rules shall be conducted by an Officer of the Police or the Excise Department not below the rank of Sub-Inspector, or, if the inspection is granted on the application of a Public Prosecutor or Assistant Public Prosecutor, then by the Public Prosecutor or Assistant Public Prosecutor himself. It shall take place within the precincts of the Court in which the records are lodged and in the presence of an Officer of the Court who shall be deputed by the Sessions Judge or Magistrate for the purpose, and no record or part of a record shall be removed by the inspecting Officer from the precincts of the Court.

4. ***Rule 207*: Inspection by Public Prosecutor, Andhra Pradesh:** The Public Prosecutor, Andhra Pradesh, if he wishes to inspect the original records of Criminal Courts should request the High Court through the Registrar.

5. ***Rule 209*: Taking extracts:** An Officer inspecting records under these rules can take extracts there from, if he considers it necessary to do so.

Inspection and obtaining of documents in the custody of audit (including Posts and BSNL) offices.

G.O.Ms.No. 3771, Home, dt 25.9.1951, 3083, Home, dated 22.8.1951 and 2527, Home (Pol.A), dated 29.9.1955; Govt. Endtt. 3797/56-1, Home, dated 31.8.1956; 69/56-1, Home, (Pol.A), dt 21.11.1956 and 47807/57-1, Home, (Pol.A), dated 25.5.1957

439-1. Investigating Police Officer will be given all facilities to inspect within the respective offices the original documents in the custody of audit offices. They will also have facilities to take out copies of such documents (including photo stat copies). Even where an original document has to be shown to a witness during the process of investigation, it will be possible in many cases to have this carried out at the audit office.

2. Where the Investigating Officer inspects the original documents, he shall sign and record the date of his perusal or inspection on the record so inspected or perused and thereafter request for the photocopies. The photocopies can be used in the investigation. He shall also handover a letter to the head of the office to have the original documents in his custody under lock and seal. The expenses for taking out the photocopies will be met by the concerned office.

3. In a case where an investigating officer finds it necessary to have the original documents in the possession of an audit office examined by the handwriting or fingerprint expert, the Director General of Police will request the Accountant-General to hand over the documents, in original directly to the Investigating Officer, who may use them for identification purposes and also have them examined by the Director, APFSL/Director, Finger Print Bureau.

4. The above orders also apply to documents, in the possession of the audit offices of the Posts or Telecom Department.

5. Police officers are strictly forbidden to resort to the use of Sections 91 and 92 of Cr. PC, to secure original documents from audit offices.

Additional points to be borne in mind while making search (PSO 435):

440-1. Ordinarily search of closed places is to be made with a warrant.

2. Searches without warrant may be made only in urgent cases and that too during investigation.

3. The procedure laid down in section 100 Cr.P.C. should be strictly followed while making searches of closed places with or without warrant. Otherwise the searches may become illegal.

4. As far as possible independent witnesses of that locality should be taken in searches. In case of deviation, reasons must be stated.

5. Every decency must be observed while making searches.

6. Before making a search the I.O. and the witnesses should search themselves to ensure that nothing is brought with them to implant.

7. Females should be employed to search the persons of females.

8. The seizures made from the persons should be listed separately from the seizures made from the place.

9. A copy of the list of seizures should be furnished to the person present at the place under acknowledgment.

10. Whenever, a subordinate is deputed for search, the authorisation must be in writing.

11. Whenever, a search is to be made in other jurisdiction, and by the SHO there, the requisition should be by SHO or police officer not below the rank of SI.

12. The search proceedings shall be rendered in Form 57 and seizures list prepared in Form 58 & 59.

Search for wrongfully confined persons.

441. In case of wrongful confinement, the Police Officers do not have powers for conducting search of the confined place without search warrant. The Police Officers have to obtain a search warrant under section 97 Cr. PC. So is the case in respect of a woman or a female child under the age of 18 years, kidnapped or abducted for any unlawful purposes. Search warrant has to be obtained under section 98 Cr.PC to search and secure her presence. The person rescued from wrongful confinement shall be produced before Magistrate.

Disposal of the Property coming into the hands of the Police

442. Form 60 should be used for sending property to the Magistrate. Three copies of the form should be prepared by means of carbon paper. The triplicate should be retained in the station and the remaining two

copies sent to the Magistrate with the property. When the duplicate copy is received back from the Magistrate, with his orders thereon, it should be pasted in the book. The Investigating Officer shall write a case diary for despatch of the property to the court and for the endorsement made by the Magistrate on the duplicate copy of Form 60 and file another petition for handing over the property to the owner u/s 451 Cr. PC duly intimating the owner to file a requisition from their side.

Instructions regarding the panchanama

443. The instructions regarding the panchanama for the recovery of the property as a result of the confession made to the Police by the accused and the property found in consequence of a confessional statement made to the police by one of several accused is given in Order 433.

Recovery of stolen property otherwise than on house search - record of material facts

444. When any property is recovered by a Police Officer otherwise than on a formal search of premises, a contemporaneous record of the facts relating to such recovery may be prepared by him in Form 60 and attested by witnesses present at the time of such recovery. This record shall be sent to the Magistrate without any delay. The record so made is admissible in evidence to corroborate the testimony of the police officer, who is prepared it or may be used to refresh his memory. The signature of the attesting witnesses may be used in evidence only to corroborate the statement of the Police Officer that they were present at the time of the recovery of the property and attested the record prepared by him.

445. Reciprocal arrangements for assistance and procedure of attachment and forfeiture of property with other countries :

Principle of Dual Criminality : The offence should be punishable in the Country where legal action has to be taken by their Law Enforcement Agency

Sec. 166 A Cr. PC: Letter of request to competent authority for investigation in a country or place outside India. (Letter regotary)

Sec. 166 B Cr.PC: Letter of request from a country or place outside India to a court or an authority for investigation in India Sec. 188 Cr.PC : Offence committed outside India.

Chapter 7-A Cr. P.C consisting of sections 105-A to 105-L deals with the provisions and procedure for seizure, arrest, production of

documents needed for investigation as well as forfeiture of properties derived from crime. The nature of assistance, enquiries, investigation and action to be taken in respect of requests received from other countries in that State are also detailed herein. CBI Interpol, New Delhi is the Nodal Agency

Custody of property :

446-1. According to Section 451 of Cr. PC, when any property, regarding which any offence appears to have been committed or which appears to have been used for the commission of any offence is produced before any criminal court during any inquiry or trial, the court may make such order, as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial. If the property is subject to speedy or natural decay or if it is otherwise expedient so to do, the court may, after recording such evidence as it thinks necessary, order it to be sold or disposed. This section provides for the interim custody of property with the owner. The Supreme Court of India issued broad guide lines in *Sunderbhai Ambalal Desai vs State of Gujarat (2002). 10 SCC 283 ; AIR 2003 SC 638* directing the trial courts to return the recovered property expenditiously and Judiciously u/s 451 CrPC.

2. **Livestock :** The seizure of livestock by the police in criminal cases shall be forthwith reported to the Magistrate for orders under Section 457 of Cr. PC. Pending the orders of the Magistrate regarding its disposal, the livestock shall remain in the custody of the police, but they may deliver it to the charge of the Village Revenue Officer or to its owner to be produced when required.

3. **Police not to receive property without orders as to disposal:** When a Magistrate has taken over property from the Police, they should not receive it back without orders as to its disposal.

4. **Unclaimed property:** It shall be the duty of police officer to take charge of all unclaimed property. The receipt of unclaimed property should be entered in the GD and the property forwarded to the Magistrate with Form-60 immediately. The disposal of such property shall be as per the orders of the Magistrate.

FORM - 57

Chapter – 24.
See Order No.440-12.

IN DUPLICATE

SEARCH PROCEEDINGS UNDER SUB-SECTION (4) OF SECTION 165,CODE OF CRIMINAL PROCEDURE.

(1) Where I have reasonable grounds* for believing that anything** necessary for the investigation into

Police Station Crime Number

Under section…… may be found, which cannot in my opinion be searching otherwise obtained without undue delay, I am ——————————————the causing search to be made house / houses of the owner or occupier causing search to be made.

In the village/town/city of

(2) Whereas I am unable to conduct the search in person*** and whereas there is no competent person to make the above search at present, I do hereby require and authorize my subordinate to search the above place or places for the above thing or things.

Officer- in-charge of the Police Station.

Station. ——————————————————————

Investigating Officer.

Date.

* Here mention grounds.

** Here mention properties, documents, etc.

*** Here enter grounds.

FORM - 58 Chapter – 24 & 33
(I.I.F.4) See Order No.440-12 and 609-4

PROPERTY SEARCH & SEIZURE FORM
(Search/Production/Recovery U/s. 165 Cr. P.C.)

1. *Dist …… *P.S. …… *Year…… *FIR No./G.D.No…… Date….
2. Acts and Sections ……
3. *Nature of property Seized : Stolen / Unclaimed / Unlawful possession / Involved /Interstate…….....
4. Property seized (a) Date… (b) Time……

   (c) Place from where seized/recovered……..

   (d) Description of the place of seizure/recovery……
5. Person, from whom seized:

   *Professional Receiver of Stolen Property…… Yes/No

   Name…… Father's/Husband's Name……..…

   Sex……..… Age ……..… Occupation……

   Address……..……
6. Witnesses:

   (i) Name……. Father's/Husband's Name……

   Age……...Occupation……....Address…….....

   (ii) Name……. Father's/Husband's Name……..…
   Age……. Occupation……
   Address…….....
7. Action taken / recommended for disposal of perishable property : ……
8. Action taken/recommended for keeping of valuable property : ……
9. Identification required : Yes/No
10. Details of properties seized/recovered: (Use prescribed form(s) and attach). Details of Counterfeit Currency seized/recovered : *Dist. …… *P.S. …

    *Year……..… *FIR No…… Date……..

SI. No.	No. of Pieces	Series	Serial Number	Type of Currency	Denomination
1	*2	*3	*4	*5	*6

Signature of the Investigating Officer.

Details of Narcotic Drugs seized/recovered
*Dist. …… *P.S. …… *Year……
*FIR No……..… Date……

SI. No.	No. of the Drug	No. of packets	Weight in Kgms	Description of the packing & Making if any	Method of Concealment	Estimated Value (in Rs.)
1	*2	*3	*4	*5	*6	*7

Signature of Magistrate when Present. Signature of the I.O.

11. Circumstances/grounds for seizures:

12. The above mentioned properties were seized in accordance with the provisions of law in the presence of the above said witnesses/** and a copy of this seizure form was given to the person/the occupant of the place from whom seized.

13. The following properties were packed and/or sealed and the signature of the above said witnesses obtained thereon or on the body of the property. (Attach a separate sheet, if necessary).

SI. No.	Property	Signature obtained on the packet or on the body of the property
1	*2	*3

Specimen of the seal as given here:

Signature of the Investigating Officer.

Witness…….Signature…… Name ……..

Rank……..…. No. ……..

Witness - 2 Signature……Place …… Date …….

**

In case the property seized from such a place that no receipt is required to be given to anybody this portion of the sentence should be struck off.

FORM - 59 See Order No.440-12.

LIST OF PROPERTY SEIZED ON SEARCH OF A PERSON AFTER ARREST

(Section 51 Cr.P.C.)

Police Station District :

1. Name and address of the person searched.
2. Place, date and hour of arrest.
3. Place, date and hour of search.
4. Name and designation of the person who made the search.
   (In the case of females, the name and address of the female employed for the search should be given).
5. Descriptive particulars of the articles found during search (excluding wearing apparel) and their approximate value (each item to be written separately)
6. Name and addresses of witnesses, if any present during the search.

Signature of the Investigating Officer.

Received copy of the list.

Signature /Left thumb impression

of the person searched.

CHAPTER 25
Arrest, Custody, Bail and Remand

447. Guidelines in Connection with the Arrest

(As per Criminal Law (Amendment) Act of 2009 dt: 07.01.2009 w.e.f 31.12.2009)

Sec. of Law	Procedure to be followed
A Police officer before searching should record the reasons, in writing, about the grounds of his belief. Recording of reasons is obligatory.	Any Police officer may without an order from a Magistrate and without a warrant, - arrest any person who commits a cognizable offence in the presence of a Police officer i. against whom a reasonable complaint has been made (if Cognizable offence punishable less than 7 years or may extend to 7 years) ii. punishable offence more than 7 years iii. The Police is satisfied that arrest is necessary A. Police Officer may arrest a person a. to prevent such person from committing any further offence. b. for proper investigation of the offence or c. to prevent such person from causing disappearance or tampering with evidence or d. to prevent making any inducement/ threat/promise to any person acquainted with the facts of the case to dissuade him from disclosure of such facts to the police/ Court e. to preclude him from escaping from police and court. The Police Officer shall record reasons for arresting in the Case Diary. The Police Officer has to mention reasons in Case Diary, in case he is not arresting the person. B. A Police Officer may arrest without a warrant a. Person involved in committing a cognizable offence punishable with more than 7 years /awarded death sentence. b. a proclaimed offender c. a person in possession of stolen property d. a person obstructing a Police Officer in execution of his duty e. deserter from any of the Armed Force of the union, or f. liable for detention / apprehension for committing a punishable offence outside India g. a released convict committing a breach of any rule h. requisition (Oral / written) from another police officer for the arrest of any person.
41-A Cr.PC (Notice of appearance before Police officer)	In all cases where the arrest of a person is not required, the office-in-charge of P.S issue a notice directing the person against whom a reasonable complaint has been made/received. Failure to comply with the notice, entails the Police Officer to arrest such person.
41-B Cr.PC (procedure of arrest and duties of officer making arrest)	While making an arrest, shall Bear and accurate, visible and clear identification of his name for easy identification. Prepare a memorandum of arrest (Integrated Investigation form (IIF) – 3) A.P.P.M Order no.609 (3) duly attested by a witness known to accused countersigned by the accused.

41-C Cr.PC (Control room at districts)	A control room shall be established at every district and State level displaying names and addresses of arrested persons with names of police officers who arrested such person.
41-D Cr.PC (Right of arrested person to meet an advocate)	When any person is arrested and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation.
48 Cr. PC Pursuit of offenders into other jurisdictions	A police officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest, pursue such person any place in India.
50 Cr.PC (arrested to be informed of grounds of arrest and of right to bail)	When arrested without warrant other than a non-bailable offence, communicate him full particulars of the offence for which he is arrested. Inform that he is entitled to be released on bail
50-A Cr.PC (Obligation of person making arrest to inform about the arrest, to a nominated person)	Give information of arrest particulars to any of his friends/relatives of accused Police officer should inform the rights of arrested person. Police officer should make G.D. entry of the names of persons, Cell phone numbers of the friends/relations of accused with full details.
51 Cr. PC (Search of arrested person)	If a person arrested under a warrant or arrested for a non-bailable offence if he cannot furnish bail in bailable offence, Police Officer may search such person seize articles if any, furnish receipt to arrested person (a female officer shall search the accused females)
52 Cr. PC Power to seize offensive weapons	The officer making any arrest may seize offensive weapons from the arrested person and should deposit in the Court.
53 Cr. PC (Examination of accused by a Medical Officer at the request of Police officer)	During the course of investigation, when reasonable grounds exist which will afford evidence in connection with offence, police officer not below the rank of S.I. has to file a request letter to the medical officer for ascertaining facts. Medical Officer can use 'reasonable force' in collection of samples (like blood/ blood stains/ semen/ swabs/ sputum/sweat/hair samples/ finger nails clippings including DNA profile.) Female accused person is to be examined only by, or under the supervision of a female Medical Officer.
53-A Cr. PC (Examination of a person accused of rape by Medical Officer .)	On a charge of committing an offence of rape or attempt to commit rape, when reasonable grounds exist which will afford evidence in connection with offence, S.I. of Police / Investigating officer has to file a requisition before the Medical officer. The Medical Officer without delay, examine the accused and submit his report to the court with a copy to the requisitioning authority.

54 Cr. PC (Examination of arrested person by Medical officer)	The Investigating officer/Police officer should produce an accused before the Medical officer for medical examination of health/injuries before producing such accused in the Court. It is mandatory. Female accused person has to be examined only by, or under the supervision of a female Medical officer. If female Medical officer is not available, then by a female registered Medical practitioner. Medical officer/Medical practitioner prepares the record mentioning injuries or marks of violence upon the person arrested and submit a copy to the Police.
54-A Cr. PC. (Identification of person arrested)	In case of unknown accused the Investigating officer has to file a requisition before the Magistrate for conducting Test Identification Parade (refer chapter) The Court will conduct the Test Identification.
55-A Cr. PC (Health and safety of arrested person)	Duty of the person having the custody of an accused to take reasonable care of the Health and safety of the accused.
56 Cr. PC (Person arrested to be taken before Magistrate or officer-in-charge of police station)	The Police officer has to produce the accused before the court without unnecessary delay.
57 Cr. PC (Person arrested not to be detained more than 24 hrs	No Police officer shall detain in custody a person arrested without warrant not exceeding 24 hours excluding the time necessary for the journey from the place of arrest to the Magistrate's court.
58 Cr. PC (Police to report apprehensions)	Officer-in-charge of a police station shall report to the Dist. Magistrate/Sub-Divisional Magistrate, of all persons arrested without warrant
59 Cr. PC (Discharge of person apprehended)	No person who has been arrested by a police officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.
60-A Cr. PC (Arrest to be made strictly according to the Code)	Police officer making the arrest shall make such arrest in accordance with the provisions of Cr. PC or any other law for the time being in force providing for arrest.

447-1 Power of arrest :

Criminal Law (A) Act 2008 :

Any Police Officer may without an order from a magistrate and without a warrant, arrest any person, as per the provisions u/s 41 Cr. P.C.

The police officers should follow the following procedure under Cr. P.C while making arrest. (as shown in PSO 447)

(SsP/DSP should make adequate arrangements, when police men are sent out of State and should get in touch with concerned SsP/CsP) for assistance.

Medical examination of Accused :

Sec.53 Cr.PC.	Examination of accused by a Medical Practitioner at the request of police officer.
Sec.53.A Cr.PC.	Examination of accused person of rape by a Medical Practitioner.
Sec.54 Cr. PC.	Examination of arrested persons by a Medical Officer.
Sec.55.A Cr.PC.	Health and safety of arrested person.

Search of arrested persons:

Sec.47Cr.PC.	Search of place entered by person sought to be arrested
Sec.51 Cr.PC	Search of arrested person
Sec. 52.Cr.PC.	Power to seize offensive weapons (material to be sent to FSL as required under chapter 31)
Sec.100 Cr.PC	Persons in charge of closed place to allow search.

Sec. 165. Cr.PC. Search by Police Officers :

2. Police Officers derive their powers of arrest without warrant from sections 41, 42, 43(2), 60, 129 and 151 of Cr. PC.

   Sections 41-A, 41-B, 41-C, 41-D, 46, 47, 49, 50,50-A 51,53-A, 54-A, 55-A, 56, 57, 60-A, 167 and 169 Cr. P.C *inter alia* deal with procedures, during and after arrest.

3. Arrests can be made by Police Officers with Warrants issued by the Courts. There is no discretion allowed to the Police in executing Warrants of arrests. The Warrant must, be in writing, signed and sealed by the presiding officer. It should specify the offence as well as clearly the identity of the person to be arrested. The Warrant sometimes may specify the date on which the Warrantee is to be produced in the Court. If such a Warrant cannot be executed within the time specified a fresh Warrant might be obtained after returning the earlier one. The validity of a Warrant is an important matter particularly in respect of those meant for arrest of persons in other countries.

4. The Warrants are either bailable or non-bailable. In respect of bailable Warrants the arrestee should be released on bail, when he offers the required security and in respect of non-bailable Warrants the Police Officer has no discretion, and the person must be produced before the concerned Court. Prompt execution of Warrant is one of the foremost duties of the Police and should receive high priority.

5. The Warrant must be executed by the officer to whom it is endorsed. If that officer wants warrant to be executed by his subordinate officer he must make endorsement by name accordingly.

6. SHO should take action for Proclamation of absconding person u/s 82 and 83 Cr. PC (attachment of property of absconding accused), if the warrantee is absconding, and that he /she has properties in his /her name.

7. Every Police officer making any arrest will inform regarding such arrest to the relatives/friends (Sec.50 A Cr. PC) and make a GD entry.

8. When SHO notices breach of any condition of a bail bond he has to file a petition in the respective court for cancellation of bail bond u/s 446 A Cr. PC. Every person standing surety to an accused person for his release on bail, shall make a declaration before the court as to the number of persons to whom he has stood surety including the accused as per sec. 441-A Cr.PC. SHO shall record this in the CD or Court case Diary.

9. In case of failure by a person released on bail or bond to appear in the Court without sufficient cause, Court will initiate action u/s 229-A IPC (cognizable, non-bailable/ non-compoundable)

448. Constitutional guarantees - Rules to be followed for effecting arrest

Articles 21 and 22 of the Constitution lay down that no one shall be deprived of his life or liberty except in accordance with procedure established by law and that arrested persons are entitled to know the grounds of their arrest and a right to consult and be defended by an Advocate of their choice and that every arrested person should be produced before a Magistrate within 24 hours. Arrest takes away the liberty of a person and should, therefore, be effected in strictest compliance of the law. Wherever, it is warranted it should be promptly carried out but arrest is not to be effected just because a police officer has the power. No accurate account of all circumstances under which arrest without Warrant can be made or should not be made can be detailed. He must exercise it with discretion.

Conditions necessitating arrest

449-1 A Arrest of accused is necessary to infuse confidence among the terror stricken victims, particularly in grave offences like murder, Dowry Death, dacoity, robbery, burglary, chain snatching, Child sexual offences under POCSO Act, rape, organized crime, terrorist offences etc.

B. If an accused has committed a cognizable offence in the presence of Police Officer.

C. If a person is involved in committing a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to Seven years, based on a complaint or on credible information, the Police Officer may arrest such person if he has reason to believe that such person has committed such offences. However, the following condition apply whether such arrest is necessary or otherwise. (Sec. 41 Cr.PC).

If the Police Officer has reason to believe that such person has committed the said offence and he is satisfied that such arrest is necessary.

a. for proper investigation of the offence, or

b. to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner: or

c. to prevent such person from making any inducement, threat or promise to any person acquainted with the facts to the Court or to the Police Officer: or

d. as unless such person is arrested, his presence in the Court whenever, required cannot be ensured.

Whether he effects the arrest or otherwise the Police Officer has to make clear mention of such grounds in the arrest CD.

A police officer without any order from the Magistrate and without the warrant, may arrest :

1) A person who has committed a cognizable offence punishable with imprisonment for a term which may extend to more than 7 years or with death sentence.

2) A person who has been proclaimed as an offender;

3) A person who is in possession of stolen property

4) A person who has obstructed a police officer while in the execution of his duty or who has escaped or attempt to escape from lawful custody;

5) A person who is suspected of being deserter from the armed forces.

6) A person who has committed an extraditable offence at any place out of India and liable for apprehension and detention in India.

7) A person who being a released convict commits a breach of any rule made u/s 356(5) Cr. PC.

8) A person whose arrest is requested by another police officer with the details of the offence.

2. Police Officer making an arrest should record in all the relevant records, the reasons for making the arrest, thereby bring out his conformity to the instructions given in this order and must be able to justify the arrest if required. The Police Constables and Head Constables who make the arrest should submit a report detailing the circumstances of the arrest to the SHO or IO concerned who should incorporate the contents of such reports in the General Diary, Case Diary etc.

3. All Police Constables, Head Constables and Sub-Inspectors working in the field who are empowered under law to exercise the powers of arrest without Warrant, should exercise their powers with prudence and be accountable for the arrest made in the discharge of their assigned tasks and duties.

4. In the light of these instructions, the action of Police Officers of all ranks in arresting persons where it is not necessary and not arresting where it is necessary, will amount to misconduct and may entail suitable disciplinary action.

450-1 Procedure regarding arrest

Joginder Kumar vs State of U.P. and others A.I.R. 1994 SC 1349

No arrest should be made in a routine manner simply because the law empowers the police officer to do so. The existence of the power to arrest is one thing while justification for the exercise of power of arrest is quite another. The police officer must draw a margin between legality and necessity. (section 41-B Cr. PC).

2. The police officer may without arresting, keep a watch on a person and then arrest him, if subsequent events justify such action. No restraint can lawfully be exercised over a person so long as he is not arrested.

3. The arrest should be avoided if the intention is only to verify the suspicion of involvement against a person. A police officer may under section 160 Cr. PC issue a notice to the suspected person to attend the police station and interrogate him. He should not be detained for long and more than required.

Arrest of Children and Women

451-1. The Juvenile Justice (Care and Protection of Children) Act, 2015 prohibits lodging of children in police lock-ups or being brought to police stations after arrest. Alternatives are provided for lodging the Children in conflict with law (CICL). The procedure prescribed therein should be observed in respect of juveniles. The Special Juvenile Police Unit (S.J.P.U) is constituted with Addl.SsP and Addl. DCP Crimes as SJPU officers in respective Districts / Commissionerates.

2. The following instructions shall be followed whenever, arrest of women is contemplated.

A. While making arrest of a woman submission to custody should be presumed unless circumstances to the contrary exist. There should be no occasion for a male Police Officer to touch her in person. It is therefore, advisable whenever it is proposed to arrest a female, women police should be employed.

B. Arrest of women should as far as possible during night times be avoided unless it is inevitable. In the event of arrest, it should be done by women Police Officers and such persons be lodged in a woman P.S.

C. When it is not possible to secure the services of women Police Officers, an officer of the rank of ASI or above should effect the arrests, in the presence of an NGO or WCD Officer.

D. Bail may be granted where the offence for which the arrest is made is not of a serious nature.

E. Whenever, a woman is arrested, the services of women Police Officers should be utilized for guarding and escorting her. If women Police Officers are not available in the Police Station, one of the relations of the arrested woman, of her choice can be permitted to remain with her. When interrogation of the arrested woman is done by a male Police Officer the relation or woman Police Officer should be present. If a Woman Police Officer herself is conducting the interrogation, the presence of a woman relative may not be necessary.

F. Children in need of care and protection should be produced before CWC (Child Welfare Committee) of the District / Commissionerate. The Police Officer should have the names and addresses of CWC chairperson and members displayed in all PSs indicating the name and phone number of the SHO of the PS who is designated as Child Welfare Police Officer (GO Ms. No.12 Home (Services-1), Dept., dt: 11.02.2016).

Rights of Arrested Persons (Cr.PC. Sec. 50)

3. The arrested persons have certain rights with which the Police Officers should be familiar. These are important from the Human Rights angle also besides being statutory provisions and should be respected. The important rights are -

A. Right to be informed of the grounds of arrest.

B. Right to be produced before a Magistrate without unnecessary delay and within 24 hours (Sec. 57 Cr.PC)

C. Right to consult a legal practitioner or any one of his choice (Sec. 41 D Cr.PC)

D. Right to be informed of right to bail (Sec. 50 Cr.PC)

E. Right of a person without means to free legal aid and to be informed about it,

F. Right to be examined by a Medical Officer (Sec. 54 Cr.PC)

Direction to subordinates to arrest

452-1. When a Police Officer-in-charge of a police station, or any Police Officer making an investigation, is himself not able to effect the arrest of a person, he may, under Section 55 of Cr.PC depute any officer subordinate to him to arrest the person. When such an officer is deputed, he should be given an order in writing specifying the person to be arrested and the offence or cause for which the arrest is to be made. The officer so authorised shall notify to the person to be arrested, the substance of the order and, if so required by such person, shall show him the order. This section, however, does not take away the statutory power vested in all Police Officers by Section 41 of the Cr.PC.

2. A Head Constable in-charge of an out-post or a beat area or check post, without the intervention of the SHO, may take action in offences under special and local enactments, which empower the Head Constable to take action.

3. When a private person arrests any person who commits a non-bailable and cognizable offence in his view, he shall be taken to the nearest police station immediately and such person shall be re-arrested by the police.

The following requirements laid down by Supreme Court should be observed in all cases of arrest or detention which have been mandated in Criminal Law (amendment) Act, 2009.

D.K. Basu vs State of West Bengal. AIR 1997 Supreme Court Page 610 and Government Orders issued in this regard.

453-1. Supreme Court Guidelines - to be observed in all cases of arrests

The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register. (Sec.41-B Cr.P.C.)

Memo No. 564, 23/HRC/93-12 dt. 20-10-97 of GAD AP

RC No. 43383/C3/87 dt. 22-10-97 of DGP AP

2. The Police Officer carrying out the arrest of a person shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may be either member of the family of the arrestee or respectable person of the locality where the arrest is made. It shall also be countersigned by the arrestee and contain the time and date of arrest. (Sec.41-B of Cr. P.C.)

3. A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee. (Sec.41-D Cr.P.C.)

4. The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organization in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest. (Sec.41D Cr.PC.)

5. The person arrested must be made aware of his right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained. (Sec.41-B Cr.PC.)

6. An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the Police Officials in whose custody the arrestee is.

7. The arrestee should, where he so requests, be also examined at the time of his arrest about major or minor injuries, if any, present on his/her body (Sec. 54 Cr.PC). The "Medical Examination Report " must be signed both by the arrestee and the Police Officer effecting the arrest and its copy provided to the arrestee.

8. The arrestee should be subjected to medical examination every 48 hours during his detention in custody by a doctor from the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory. Director, Health Services should prepare such a panel for all Mandals and Districts as well. (Sec.53/54 of Cr. PC.)

9. Copies of all the documents including the memo of arrest, referred to above, should be sent to the jurisdictional Magistrate for his record.

10. The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation. (Sec.41-D of Cr. PC.)

11. A Police Control Room should be provided at all district and State headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and it should be displayed on a conspicuous police board at the police control room. (Sec.41-C Cr.PC.)

Guidelines for a Police Officer in making an arrest

454-1. When a police officer proceeds to arrest a person and cannot identify him personally, he should secure the services of a person who knows the person to be arrested and should also provide himself, if available, with a photograph, a descriptive role and the marks of identification of that person. He should be sure of the identity of the person to be arrested.

2. The police officer should be in uniform with his name and number if any, on the pocket, besides carrying his identity card or, if in plain clothes, carry his identity card and should disclose his identity. He should arm himself with such firearms and accessories required for his defence, if the circumstances demand such a precaution.

3. Police parties engaged on anti-dacoity, terrorist operations or similar duties which are likely to lead to arrests of dangerous persons, should carry handcuffs and leading chains to secure the arrestees, to prevent their escape or violence.

4. The person to be arrested with or without warrant should be informed of the grounds for making the arrest.

5. The arrest should be effected without unnecessary violence or publicity.

6. Section 46 of the Cr.PC lays down that the police officer making the arrest of a person shall do so by actually touching or confining the body of the person to be arrested, unless there is submission to the custody by word or action.

7. When a person is to be apprehended and if he resists by force or tries to evade, the arresting police officer may use necessary force to arrest him except causing death. But if the accused to be arrested is involved in an offence punishable with death or imprisonment for life, the force can be even to the extent of causing death depending upon the circumstances.

8. When a person to be arrested is concealing himself in a closed place, the police officer has every right to enter such places even by force to effect the arrest. He can even arrest everyone who obstructs him from discharging his duty. However, he must behave decently with women inmates.

9. Police officer can exercise the right of private defence of his body and others while resisting arrest.

10. In rare cases the Police Officer may go to the extent of causing death who resist arrest using violence when such person is accused of an offence punishable of death or imprisonment for life (Sec. 46 (3) Cr. PC.

11. Without prior permission of JFCM, no woman shall be arrested after sunset and before sun-rise (Sec. 46 (4) Cr.PC

Search of the arrested person by the Police

455-1. Whenever, a person is arrested and not released on bail by a police officer a thorough search of his clothes and belongings should be made before putting him in lockup. Articles found upon him other than necessary wearing apparel should be placed in safe custody and if any articles are seized from his person, a receipt showing the articles taken possession by the Police Officer shall be given to such person. The personal articles of the person should be kept in safe custody in the Property Room (Malkhana) and entries made in concerned registers. (PSR form No. 59-B) If there are any incriminating articles or objects or materials, which might be necessary for investigation, they should be separated and the procedure for recording and dispatch of case property to courts should be followed. The other property should be returned to him or his nearest kith or kin when he is remanded to custody.

2. Whenever, it is necessary to cause a female to be searched, the search shall be made by a Woman Police Officer or another female with strict regard to decency.

3. The officer or other person making any arrest, shall seize from the arrested person any offensive weapons, which he has on his person and shall deliver all weapons so taken to the court or officer before which or whom he is produced.

4. **Treatment of the arrested persons**: Whenever any person is arrested by a Police Officer, or by a private person and is brought to the police station, the SHO shall examine the body of the arrested person and note whether he has any injuries over his body. If any, injuries are observed irrespective of their nature, he should forward the said person to the nearest Medical Officer of the Government Civil Hospital or other Hospitals of local bodies authorized for medico-legal work, for treatment and injury certificate. The Medical Officer should be requested to specify the age of each injury. (Sec.54 Cr.PC)

5. When any person with injuries in a serious condition or a drunken person in uncontrollable condition, who is unable to take care of himself, is brought to the police station, the SHO shall immediately forward such person(s) to the Government Hospital. Any delay may cause death, in which case the Police Officer in-charge of the police station will be held responsible. The statement of the injured person should be recorded in the hospital and further action taken.

6. When an arrestee demands examination of his body, which will afford evidence to disprove the charge levelled against him and establish his innocence or evidence of an offence against his own body, the Police Officer should forward him to the Medical Officer of the Government Civil Hospital for the examination and injury certificate. Such a certificate shall be forwarded to the Magistrate concerned.

Police Custody (Sec. 167. Cr.PC)

456-1. A person who is arrested and not released on bail shall be detained in a secure area of the Police Station earmarked for such purposes, under constant watch. A prisoner whom the SHO considers to be dangerous and is likely to escape should be kept in the lock-up under continuous and effective watch. This should be done only after making a thorough search and necessary entries should be made in the prisoners search register and guard or watch sentry relief book.

2.A. A person called to a police station for questioning in order to verify his complicity in any offence shall not be kept in lock-up, without effecting arrest. Arrested persons who are known to be goondas, rowdies, dangerous criminals, members of organized gangs, terrorist

groups, those likely to escape and charged in serious offences of murder, rape, kidnapping for ransom etc. should be kept in the lock up rooms.

B. In case an accused person asks taking him to washroom depending upon the seriousness of crime he may be chained to preclude escape. Washroom should not have blades / glass bottles, sharp objects, acids.

3. person in police custody shall not be permitted to leave the lock-up after sun set, except in special and emergent circumstances (and that too with adequate escort) which shall be recorded in the general diary and the Sentry Relief Book.

4. A person in police custody prior to remand is entitled to see his relatives and an Advocate. He should not, however, be allowed to talk to members of the public. If the arrested person desires that one of his relatives may be permitted to remain with him, his request should be considered unless there are compelling security reasons. If the arrested person for health reasons prefers to get his food from his residence, he can be permitted, but the person bringing food to the police station should be made to eat samples of all the food items before serving to the person in custody. However, in normal course, the arrested persons should be fed at Government's cost as per the rates approved from time to time.

5. Whenever, any punitive action is taken or contemplated against a foreigner, he should be provided with facilities, if he so desires, to communicate over the telephone or by a telegram, or fax or e-mail or letter, with the Consul General , High Commissioner or other representative of his country, as the case may be, within 24 hours.

Arrest Reports or Memo (IIF- 3)

457-1. Police Officer has to uploaded the I.I.F-3 in AP Police intranet. Every person arrested by a police officer without a warrant in a non-bailable case shall be forwarded for judicial remand to the nearest Judicial Magistrate within 24 hours excluding the journey time.

2. An arrest report or memo in Form No. 61 containing time, date and place of arrest shall be prepared at the time of arrest and will be sent by the SHO or Inspector, as required by section 57 Cr.PC to the Magistrate. The arrest report shall be attested by at least one witness who may be either a member of the family of the arrestee or a respectable person of the locality. The arrestee shall also countersign it. The other columns of the arrest card containing time and date etc. should also be filled up.

3. When any person is arrested for his involvement in number of cases under different transactions, separate arrest reports should be forwarded to the Magistrate(s) concerned. In the arrest report, the fact of remanding the arrested person or enlarging him on bail should be mentioned.

Procedure when Government employees, armed forces are arrested.

Railway Officials :

458-1. The exercise by the Railway Police of the power of arrest without warrant given to them by Section 131 of the Indian Railways Act for offences under Section 101 of the same Act is discretionary. It should be exercised only in cases, when

A. there has been loss of life or serious injury to a person; or

B. a person is caught in the commission of a grave offence; or

C. the accused is likely to abscond or to continue to endanger the safety of the public or tamper evidence and intimidate witnesses.

2. When an arrest is made without warrant, immediate intimation of such arrest must be given to the local head of the railway department.

3. Under ordinary circumstances, if immediate arrest may not be necessary, a warrant should be applied for, while maintaining a watch over the movements of the accused, where necessary.

4. Whenever, the arrest of a Railway employee on duty is required, the department shall make arrangements for his relief. If, the relief cannot be arranged immediately or his immediate arrest would cause risk or inconvenience, the police should make all arrangements to prevent his escape and contact the authorities for immediate relief.

Arrest of Ordnance Factory Employees

G.O. Ms. 2013, Home (Pol.C), dt. 24.8.1956.

5. Arrest of an employee of an ordnance factory owned or sponsored by the Government should be notified immediately to the General Manager or the officer in-charge of the factory.

G.O.Ms. 2013, Home, (Pol.C), dt. 24.8.1956.

Arrest of Central or State Government or quasi-Government employees

G.O.Ms. 2013, Home, (Pol.C), dated 24.8.1956.

6. When a Central government employee of any department or a State Government employee or an employee of a quasi-Government Organization is to be arrested by the police, wherever it is practicable and desirable, prior intimation of the arrest of such an employee should

be sent to his immediate superior officer or the officer in-charge of the institution or department. The prior intimation must be treated as secret. Whenever, prior intimation is given by telephone it should be followed by a written intimation mentioning the time and date of such conversation. The fact of telephoning should be recorded in the General Diary if intimation is given by SHO. If the intimation is by a superior officer he should make a record of it in the Telephone Register after the arrest by the police,

A. intimation of the arrest along with a copy of arrest memo should be sent immediately to the senior superior officer of the department available in the district to which the person belongs with a copy to the immediate superior officer (of the person) if, for any reason, prior intimation could not be given; and

G.O.Ms.No. 772, Home (Police-D) Department, dated 18.5.1965

B. This should be followed by a detailed report of the offence committed together with an indication as to whether the arrested person is being released on bail or personal bond, by the police.

Arrest of public servants on operational duty :

7. When a public servant on operational duty of a department of the Central or State Government, e.g., railway staff like station masters, assistant station masters, guards, drivers and train control staff; or electricity department staff like sub-station attendants, is to be arrested, prior intimation should be given to his immediate superior, as a rule, to facilitate them to make alternate arrangements. Departure from the procedure should be made only in very exceptional cases and even in such cases, intimation should be given to the superior officer immediately after the arrest of the public servant. "However, in respect of the operational staff of the trains, prior intimation should invariably be given to the Railway divisional authorities, or where this is not possible, to the superior available at the Station where the arrest is made".

Arrest of employees of Foreign Diplomatic/Consular Missions

8. In the event of the arrest of an Indian employee of a Foreign Diplomatic/ Consular Mission, intimation should immediately be given to the Foreign Diplomatic/Consular Mission through the Government.

Arrest of foreigners

9. When a foreigner is arrested, reports as required in Order 349 of Chapter 16 on Foreigners, should be sent.

Arrest of Military employees :

10. A. The arrest of personnel of Armed Forces including Navy and Air Force charged with the commission of an offence, should be intimated to the Commanding Officer to enable him to take appropriate measures against such personnel.

B. Subject to sub-order (A) above, the person so arrested shall be dealt with in all respects like any other person in the matter of the investigation of the offence in respect of which he is arrested. The question as to whether he is to be tried by a Court Martial or a Court functioning under the CrPC is a matter for decision between the Commanding Officer and the Magistrate before whom he is brought by the police, in accordance with the rules made by the Government of India under Section 475 Cr.PC. (Delivery to commanding officers of person liable to be tried by court martial with the consent of magistrate.

C. When any investigation, search or arrest is contemplated within military lines (quarters), the Police Officers concerned should be in uniform and if in plain clothes should carry identity cards and, so far as circumstances permit, prior notice should be given confidentially to the Officer Commanding, Adjutant or Orderly Officer concerned.

Arrest of Indian Army Reservists:

11. When a reservist of the Indian Army is arrested and remanded on a criminal charge, the facts of arrest and remand will at once be reported to the DGP with information to the Army unit to which the person arrested belongs. When the case is completed, its result and, in the event of conviction, the period spent in jail by the accused while under trial, prior to conviction and the sentence awarded shall be reported. The information so reported will be communicated by the DGP to the appropriate Army authority.

Arrest of Members of State and Union Legislatures :

1. Govt. Memo. 6646/54-5, Home (Elec.II) dt. 8.3.1955;
2. Govt. Memo. 2233/56-1, Home, (Elec.II) dt. 24.4.1956;
3. Rc.3563/C1/63, dated 25th Sept., 1963;
4. G.O.Ms.No. 1392, Home, (Police-D) Dept., dt. 22.6.1966.

459. All the rights that any arrested person has, are available to Members of Legislature and Parliament whenever, they are arrested. All guidelines and instructions contained in this Chapter apply to them. The procedure contained in this should be scrupulously observed whenever, any Member of Legislative Assembly/Council or Parliament is arrested by the police.

1.1. Whenever, a member of a State or the Union Legislature is arrested, he should immediately be produced before the Magistrate concerned and there should be absolutely no delay. The police will send information of the arrest through a telegram or Radio Message, to the Speaker of the Lok Sabha or the Legislative Assembly, as the case may be. Failure to send immediate intimation to the presiding officer of the Legislature concerned will constitute a breach of the privilege of the House.

2. If a member of the Union or a State Legislature is concerned in an unimportant case, he need not be arrested, except when it is really necessary. When arrest is made in a bailable offence, the member should be immediately released on his own recognizance. If the offence is a non-bailable one, the member should be immediately produced before the Magistrate. In any case the fact of arrest and release on bail or remand should be intimated to the Speaker. Though the instructions are that the Magistrate should send intimation to the Presiding Officer of the Legislature concerned, prompt reporting by police also necessary.

3. A report of the arrest (whether released on bail either by the Police or by the Magistrate) should be sent by the SP/CP in whose jurisdiction the arrest is effected to the Speaker of the Lok Sabha, the Chairman of the Rajya Sabha, the Speaker of the State Legislative Assembly or the Chairman of the Legislative Council, as the case may be, by Radiogram or automex or fax with a copy of confirmation dispatched simultaneously by speed post along with a copy of Arrest Memo in Form-61.

4. The message should contain the information as furnished in the arrest memo sent to Magistrate and relatives (Form 61). Thereafter a detailed report should be sent to the Presiding Officers concerned containing the following information:

   A. The place of custody or detention of the Member;

   B. When a Member, who is under detention or is undergoing, a sentence of imprisonment is transferred from one jail to another, the change in the place of detention or imprisonment; and

   C. When a member is released from jail on any ground e.g., on bail pending appeal or on the sentence being set aside on appeal or on the remission of sentence by Government or on completing the sentence or on the termination of preventive detention, such release.

5. The SP/CP also should simultaneously report the arrest by radiogram to the DGP, to enable him to report it forthwith to the Government and the Secretary to the Legislature. The copies of such reports should also be sent to the superior police officers.

Police lock-ups and treatment of persons in custody and under trial prisoners : (Sec. 55A Cr.PC)

Rc.No. 449/ J3/62, dated.10.10.62 of DGP AP

460-1A.Once a person is in custody of the police, the responsibility for his life and safety will be totally on the police. The physical and psychological condition of every person in custody is a major factor that should determine the precautions, facilities and arrangements required to be made. The other factors such as the nature of the offence in which he is involved, the investigation required to be done, the antecedents, age, sex, ignorance and vulnerability are all vital and crucial. While every case has its peculiar features and circumstances, certain important stipulations should be observed.

B. The first requirement is physical safety of the person in custody. This includes safety from injury and death, whether self inflicted or otherwise. As the psychological state of each individual cannot be accurately gauged, it is necessary to realize that the general mental state of a person arrested and brought to the police station would be fear, shock, trauma, sense of guilt and shame etc. Suicidal tendencies therefore, develop. Hence, the place where he is lodged should not contain anything including his apparel or belongings that afford him any opportunity to attempt or commit suicide.

C. There should be a watch on the person all the time, at least by one policeman. The room or place where he is kept should be such as to afford a full view to the Police Officer posted to watch him and also to the Station Writer, HC or Duty officer. The place of work of these two should be so adjusted as to afford a complete view of the lock up rooms.

D. Wherever, any attempt or suspicion about the movements or action comes to notice, the lock up room should be opened and searched. There should be effective intervention to prevent attempt at suicide and injuries. The whole episode should be recorded in the station General Diary, Sentry Relief Book and the person should be sent for Medical examination with a report. The Magistrate and all other authorities to whom Form 61 report is made should also be informed in writing.

E. The statements of other persons in custody and those present should also be recorded and enclosed to the report.

F. Since the person is in custody, sometimes even self-inflicted injuries or suicides can be interpreted as those caused by police. Hence, effective and timely intervention, contemporaneous recording of events, reporting to all concerned of such attempts by persons in custody are important.

Article 5 of Universal Declaration on Human Rights

G. No Police Officer or IO shall use any force or cause any physical injury during interrogation of the person in custody. If such injuries are caused and result in death of the person, the Police Officers concerned will be liable for prosecution for homicide and the burden of proof of their innocence lies on them.

H. No one shall be subjected to torture, or to cruel inhuman or degrading treatment in custody.

I. Police officer is duty-bound to take care of health and safety of the accused while in police custody (Sec. 55A CrPC)

J. When a person accused of rape is arrested and lodged in lock up, he should be taken for immediate medical examination as per Sec. 53A CrPC. for a report regarding his culpability.

2. Two blankets and two dhurries for rural stations and four blankets and four dhurries for town police stations having lock-ups should be supplied for the use of persons in police custody for each lock-up. These should be always kept clean, washed and dried. These articles will be treated as station property and the officer in-charge of the station or Outpost will be responsible for their issue to such of the prisoners who do not provide themselves with their own bedding.

G.O.No. 3017, Home, dt. 2.8.1937.

3. The police lock-up, if it contains a prisoner or prisoners shall be unlocked at daybreak. The bedding of the prisoners, shall be at once brought outside, well shaken and left for some hours in the sun.

4. In lock-ups where toilet facilities are not provided, the night vessels, if any used, shall be removed and toilets shall be thoroughly cleaned. Wherever, toilets are provided they should also be thoroughly cleaned. No blades, shaving razors, acid bottles are allowed.

5. The persons in custody shall be taken to the toilet and shall be allowed to wash. They shall be given food daily at 10.00 am or earlier if necessary before he is taken to Court and again at 5 pm. If prisoners are not brought to the station before the hours prescribed for meals they should be given food as soon as possible after they are confined in the lock up rooms. They should be fed at government cost if food is not brought by their relatives.

6. Officers in-charge of Police stations and officers in-charge of guards will be held personally responsible for strict compliance of these orders.

7. Prisoners are not to be subjected to needless indignity or harsh treatment. At district Headquarters or at places where police vehicles are available, prisoners should be conveyed from jail to court and back in the police vehicles. Prisoners whose confessions are to be recorded should be taken to the Court from the jail in a police van, when available, escorted by warders as a special case. In places where there is no police van, but where public transport is available, under-trial prisoners should be conveyed by normal bus service, irrespective of the distance to be travelled, provided that the number of prisoners to be taken at a time is small and can be controlled easily and provided that their presence in the bus does not cause inconvenience or annoyance to members of the public using it. In places where none of the above modes of conveyance are available, under-trial prisoners who are persons of good social position, accustomed to use a conveyance, may be allowed a conveyance, provided their safe custody is not jeopardized. The same rule should be followed in the case of prisoners who are certified by a Medical Officer to be physically unfit to walk. In other cases, prisoners should go on foot except in the cases noted below, but no prisoner should be compelled to march on foot for long distances.

A. When convicted prisoners are escorted along with under-trial prisoners, the former may be conveyed by the transport Bus in which the latter are conveyed, irrespective of the distance travelled, in order to avoid the inconvenience and expense of providing a separate escort for them.

B. Whenever, women prisoners have to be escorted by road, they should be provided with a conveyance, where the distance to be travelled by them exceeds 2 km. Conveyance may also be provided for shorter distances for reasons of health or custom or for other valid reason. Failure to make such provision would cause undue hardship to them.

Use of handcuffs

461. The use of handcuffs or leg chains should be avoided and if at all, it should be resorted to strictly in accordance with the law mandated in judgment of the Supreme Court in *Prem Shanker Shukla vs. Delhi Administration (1980, 3 SCC 526*) and Citizen for Democracy vs State of Assam (1995, 3 SCC 743).

The points to be observed in this regard are as follows :

G.O. Ms. 1832, Home, dated 10.5.1951.

1. When an accused is in Court during the trial, he must be held to be in the custody of the Court. If an accused is so dangerous that it is necessary to handcuff him, representation should be made to the Court,

and the Court will issue appropriate instructions in the matter. Accused persons while in Court during trial should not be handcuffed except with the permission of the Court.

G.O.Ms. 108, Home (Pol.D) dated 17.1.61.

2. Under-trial prisoners and other accused persons shall not be handcuffed and chained without specific permission of the court and only if there is a reasonable apprehension, either due to heinous nature of the crimes with which they are charged with or from their desperate character or violent behaviour that such persons will use violence or will attempt to escape or commit suicide or that an attempt will be made to rescue them by their gang members, or likely to attack the police or involved in terrorist crime or acting in a manner calculated to provoke popular demonstrations. The same principle shall be applied to convicts proceeding in public places while in police custody. Vindictivety is to be differentiated from necessity.

   The investigating officer should write to the court and obtain specific permission to hand cuff the dangerous, desperate, violent offenders.

3. G.O. 615, Judl., dated 24.4.1908.

   Whenever, non-convicted accused persons are handcuffed with court's permission, the fact and the reasons for it shall be stated in the Station House general diary, the sentry relief book, and in the remand diary forwarded to the Magistrate.

4. The prisoners either convicted or under trial and confined in a sub-jail shall not be handcuffed, whenever they are taken out in the precincts of the sub-jail for food or other necessities, rather the entire guard including the guard commander shall be present. If there are more number of prisoners, the guard in-charge should inform the officer in-charge of the police station to send two or three constables to assist the sub-jail guard during the period when the prisoners are taken out. The officer in-charge of police station shall provide extra manpower as required by the guard-in-charge.

5. Whenever, it is considered necessary to handcuff certain prisoners confined in sub-jail, while they are taken out, the written orders of the Magistrate should be obtained and the permission granted by him should be maintained in a book to be kept by the guard officer.

6. With regard to a refractory, violent or dangerous prisoner, the officer in-charge of the sub-jail guard or the senior Police officer present may control him only by utilising more personnel and by such force as may be necessary, while rushing a messenger to the concerned court or Magistrate for permission to handcuff him.

G.O.Ms. 108, Home (Pol.D) dated 17.1.1961.

7. Under-trial-prisoners or accused persons in Hospital should not be handcuffed without permission of the court. In no case should prisoners or accused persons who are aged and bed ridden in hospital or women prisoners, juvenile prisoners or civil prisoners be handcuffed or fettered. If necessary extra guard should be provided. However, conditions mentioned in PSO 461-2 are applicable regarding handcuffing in Hospitals where there is no prisoners' ward.

8. The restriction on use of handcuffs is not to place any embargo on use of minimum force to control a violent prisoner.

Sick prisoners

462-1. When a prisoner, who arrives at a Police station is seriously ill, medical aid should be provided (Sec. 55 A CrPC). When not available, the prisoner should be sent by the quickest conveyance available, if his condition admits of it, to the nearest station where medical assistance can be procured.

2. Prisoners attacked by cholera or other infectious or communicable disease in a police station should be removed from the lock-up and placed in an airy part of the station and all possible treatment provided.

3. Whenever, sick prisoners are brought from rural police stations to district head-quarters hospitals and admitted as in-patients, the fact should be reported to the Superintendent of Police of the district or Dy. Superintendent of Police or the Inspector of Police of the District Reserve Police in whose area the hospital is located, and an armed guard will be provided from the Reserve.

4. In larger hospitals in cities, where prisoner's wards are provided, the guard provided for the prisoner's ward should take charge of such prisoners brought from the districts. The guard in-charge of the district headquarters hospital or city hospital, should find out from the resident Medical Officer or in-charge Medical Officer of the ward about the probable date of discharge of the prisoner. The information about date of discharge should be furnished to the police station or district from which the prisoner was admitted to the hospital, so that the concerned police shall take back the prisoner.

5. Most of the District Headquarters Hospitals/General Hospitals are provided with prisoners' ward. If such provision is not available the SP or the CP should take up the matter with the concerned authority and ensure that the prisoners' ward as per the norms is provided. The prisoner irrespective of his status should be lodged in the prisoners' ward as to ensure their safety and enable the police to guard them effectively. This would also prevent inconvenience to other patients.

Arrangements are to be made for their treatment in the prisoners' ward itself except where it is necessary to shift them in emergencies either to an operation theatre or to an Intensive Care Unit. The government have issued instructions in this regard to the concerned authorities.

6. In case of death of a prisoner admitted to the hospital, the officer in-charge of the police station in whose jurisdiction the hospital is situated shall register a case under section 174 Cr.PC and, inform the Executive Magistrate to hold inquest and make such other enquiries. Finally, the dead body will be handed over to the relations through concerned police.

Scale of accommodation for prisoners

463-1. The maximum number of prisoners that can be confined in a lock-up should, in each case be fixed by the Superintendent of Police in consultation with the Executive Engineer, Police Housing Corporation or Roads and Buildings Department, having regard to the accommodation available therein. A notice in English, Telugu, Urdu and Hindi should be displayed outside the lock-up, showing the maximum number of male or female prisoners who may be confined in it. The number so fixed shall never be exceeded; and any excess over the authorized number shall be accommodated in any convenient building with adequate guard.

PWD Circular, Memo. 3266, G, dated 19.7.1917.

2. For purpose of the above Order, 16 cubic meter of breathing space and 4 square meter of ground space should be taken as the minimum requirements for each prisoner to be accommodated in a police lock-up.

3. The design of the lock-up rooms should be prepared in such a manner as to ensure adequate ventilation and light and other safety measures. The electrical wiring should be concealed and the lights embedded in the roof with the switch being kept outside at the entrance to the lock-up. There should be no rods or hooks either on the ceiling or on the walls and both ceiling and walls should be smoothly polished and white washed frequently.

Accommodation of persons outside the lock-up rooms in the station premises :

4. Those prisoners who are not likely to escape or create any problem or those who are not involved in any serious crimes, and the women may be allowed to be in any area of the police station under watch. They should not however be allowed any contact with outsiders except with their advocate or in case of women with a female relative.

5. In case where large number of persons are arrested under 151 Cr. PC to prevent breach of peace, they may be made to sit in a place either within the premises of police station or in another building which has access control and with facilities for drinking water and toilets. Where it is not necessary to detain them for any length of time they should be released after making a complete record of each person and the reasons for arrest in the concerned records. Where it is felt necessary to detain them for a few hours and they are not required to be produced before a Magistrate for any specific offence they may be released by the SHO at any time that he considers appropriate. The detention should, in any case, not exceed 24 hours as laid down in section 57 of Cr PC. They should all be given food at government cost if not arranged by their relatives or friends.

Confinement of other department prisoners in lockup

464-1. When any prisoner arrested and escorted by officers of other units such as police stations & CID, Excise, Customs etc., are brought for confinement in the police station lock-up, a written requisition shall be given to the officer in-charge of the police station and the latter shall keep such prisoners in the lock-ups. The Officers of the other units will keep their subordinates besides police station guard. If there are no prisoners in the concerned police station lock-up, the key of the lock-up shall be given to the officers of other branches or units or departments and they will be responsible for the prisoners safe custody.

2. In the lock-up if there are already prisoners of the concerned police station, then the key shall remain with the in-charge of the guard.

3. In all circumstances, the duty of supplying the prisoners with food and guarding them, when taken outside the lock-up, shall lie with the outside officers.

Escape from Custody :

G.O.Ms.No. 1599, Home (Prisons-B) Department, dated 4.9.1966.

465-1. In all cases of escape of prisoners from police custody including those from jails where police guards are posted, besides registration of case u/s 224 IPC and taking speedy measures to trace the prisoners, should also send a report by Automax, Fax, Radio or Telephone shall immediately be sent by the Superintendent of Police or the Commissioner of Police as the case may be to the Director General of Police, Addl. DGsP, L&O, Intelligence, CID, Zonal IG/DIGP who will communicate the information immediately to the government.

1. G.O.Ms.No. 1599, Home (Prisons-B), dated 1-2-57;
2. Govt. Memo No.14957/57-1, Home (Prisons-B), dated 26-1-57;

3. Govt.Memo No. 53948/57-2, Home (Prisons-B), dt 18-7-57 and
4. Govt.Memo No.11974/60-46 dated 17-10-1962

2. The radio or telephonic report shall immediately be followed by a detailed report in triplicate furnishing the circumstances under which the person escaped, whether the escape of the prisoner was accidental or as a result of collusion or negligence, the action taken to apprehend him, the person or persons responsible for the escape, the exact quantum of responsibility to be attached to the Police personnel involved and the action taken against them, and other relevant particulars. These reports should be properly drafted and neatly typed with proper care.

   Rc.No. 3406/ C2/63, dt.17.10.1963 and Rc.No. 1940/ C2/64, dt. 22.10.1964.
   Rc.No.1940/ C2/64, dated 22-10-1964 of DGP AP

3. Copies of the reports shall be sent by the Superintendent of Police to the Zonal Inspector-General/DIGP. Copies of the reports in respect of cases of escapes from jails where Police Guards are posted shall also be sent to the Director-General of Prisons, Andhra Pradesh.

4. The above orders apply also to juvenile convicts except for registration of a criminal case against them u/s 224 IPC.

466. Bail :

Sec.267 Cr. PC	Power to require attendance of prisoners, (Production warrant).
436 Cr.PC.	In what cases bails to be taken
436 A Cr.PC.	Maximum period for which an under trial prisoner can be detained.
437 Cr.PC.	When bail may be taken in case of non-bailable offence
437A Cr.PC	Accused to execute bail bonds with sureties to appear before next Appellate Court on receipt of notice.
438 Cr.PC.	Direction for grant of bail to person apprehend in arrest (AnticipatoryBail) Police should request to PP/APP to ensure the presence of accused in appellate court, while asking anticipatory bail)

(Investigating Officer should follow the Court guidelines regarding the arrest of accused who obtained anticipatory bail, and release the accused as per Court orders. However, such accused person can be

interrogated by the I.O and that he should not directly or indirectly cause any inducement, threat or promise to the witnesses.)

Sec. 439 Cr.PC	Special powers of High Court or Court Sessions regarding bail.
Sec.441 Cr.PC	Bond of accused and sureties.
Sec.441 A Cr.PC	Declaration by sureties. Station House Officer should request APP/PP for ensuring declaration of sureties.

1. Bail broadly means security for release of a person who is arrested. A person is released on bail with or without sureties. Offences are of two types as far as bail is concerned, bailable and non-bailable. When a person is arrested for a bailable offence, he is entitled to be released on bail either by the SHO or by court. In cases of arrests for non-bailable offences, bail is at the discretion of the court.

2. **Bail in bailable offences**: The SHO is competent to release a person on bail when arrested for bailable offences. If the arresting police officer is not the SHO, the arrestee shall be produced before the SHO with a written report for release on bail. If the accused jumps bail in a bailable offence and when he is arrested again, it should be treated as a non-bailable offence. In case bail is given by SHO in a bailable offence the bond should be taken in Form 63. The detailed addresses of the sureties have to be noted there in.

3. **Bail in non-bailable offences**: When a person is arrested for a non-bailable offence ordinarily he shall be produced before the Court but the SHO may release on bail in exceptional cases covered by section 437(1) and (2) Cr. PC after obtaining express permission by SP / DCP / CP concerned.

4. **Points for opposing bail in non-bailable offences:**

   a. As there are reasonable grounds to suspect that he may abscond.

   b. As he is a dangerous and desperate offender whose presence cannot be secured if released on bail

   c. As he is a repeat offender habituated in committing such crime (mentioned the type of offence)

   d. To prevent such person from committing any further offence; or

   e. For proper investigation of the offence; his presence inside the prison is essential

   f. To prevent such person from causing the evidence of the offence to disappear, tampering with such evidence in any manner; or

g. To prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or

h. His appearance in the court whenever required cannot be ensured; as there is likelihood of the accused absconding.

i. When accused are involved in Terrorist / Extremist violence, as they are likely to go underground, such persons should not be released on bail.

j. As there is likelihood of breach of peace and tranquility in the locality.

k. As there is likelihood of retaliations by the victim's party, in case of release.

Since the Dy. Director of prosecution department are designated as legal advisors to SsP, the concerned I.O. should consult the APP/ Addl. PP / PP in preparing the counters for bail petitions moved by the accused both in the lower Court and in the High Court. (G.O.Ms.No 125. Law (LA&J) Home-Courts-A2) Dept., dated: 24.09.2013.

In case of criminal petitions filed by the accused in the High Court, the SHO/IO shall get a proper draft counter affidavit, get it vetted by the Prosecuting Officer (APP/Addl.PP/PP) and meet the Public Prosecutor of High Court personally with the case diary file and be present on the day of arguments.

5. Bailable warrants :- When a person is arrested under a bailable warrant, he should not be compelled to come to the police station to get bail. He should be given bail at the place of arrest if he offers security.

Anticipatory bail (u/s 438 Cr.PC)

467-1. When a person apprehends arrest for a non-bailable offence on a reasonable suspicion, he may apply to the High Court or Sessions court to give a direction to release him on bail in case he is arrested.

2. In such cases the court gives notice to the P.P. for his objections, if any. The SHO must furnish the P.P. with sufficient information to enable him to argue the case.

3. In case the order is given in favour of the petitioner, the direction will be that he should be released on bail in case he is arrested on taking security as specified in that order. This clearly shows that the police officers are competent to arrest even if one gets such order. The only facility is that he should be released on bail in case of arrest without producing him in court.

4. The court may be requested to impose conditions in case an order is given in his favour. Such conditions can be;

A. That the person shall make himself available for interrogation as and when required.

B. That, he shall not directly or indirectly tamper with evidence or witnesses.

C. That, he shall not leave the place or the country.

D. That, he shall co-operate with the investigation.

Remand of arrested accused :

468-1. When a person is arrested during the course of investigation and if the investigation is not completed within 24 hours, the officer-in-charge of the police station shall forward the accused to the nearest judicial magistrate along with a remand report u/s 167 Cr.PC. enclosed by the case diary u/s 172 Cr.PC written till that date.

2. The accused will be remanded only when the investigation discloses some offence against him so far and further investigation is needed for completion.

3. Remand period at a time will be for a maximum period of 15 days.

4. Further remand, if necessary, is only by the jurisdictional magistrate, on application by the Investigating Officers.

5. Before sending the accused for remand he should be produced before the medical officer(Sec.54 Cr.P.C.) and after medical examination arrested person is to be produced before Magistrate with the medical examination report.

6. If the accused is involved in a case of Rape, he should be sent to a the Medical Officer for detailed medical examination (u/s 53(A) Cr.PC.) and shall obtain a report of such examination as per the proforma.

7. The SHO should remember that it is his duty to take reasonable care of the health and safety of the accused (Sec.55(A) Cr. P.C.)

8. In case the accused is required for further investigation (Police custody) requisition should be filed u/s 167(3) Cr.PC. immediately.

9. If any accomplice of the accused is required for confrontation, SHO/ I.O should obtain production warrant simultaneously (u/s 267 Cr.PC.)

10. Permission of the court should be taken for handcuffing the accused in case of dangerous, desperate offenders.

11. The police can seek remand for 60 days in ordinary cases where offences are punishable with imprisonment for less than 10 years and 90 days in cases punishable with death or life imprisonment or with imprisonment for not less than 10 years. If the charge sheet is not filed within that period, the accused shall be entitled for a bail even in a serious case like murder. (Refer: Sec 167 (2) (a) Cr.PC).

12. No accused shall be remanded to judicial custody unless he is produced before Magistrate for the first time. But in Andhra Pradesh an accused remand could be extended even from jail by means of video conferencing. (The A.P. amendment Act No.31 of 2001, w.e.f. 06.12.2000), followed by Cr. PC (Amendment) Act, 2008 vide Sec. 167 (2) (b) Cr. PC (through the medium of Electronic Linkage).

13. An accused can be remanded separately for each and every case committed under different transactions. The Investigating Officer shall mention list of all the cases in which he/ she is involved in the Remand Report with FIR Nos., section of law and PS.

14. Remands always shall be given by the Judicial Magistrate, but in the absence of any Judicial Magistrate, an executive magistrate on whom the powers of Judicial Magistrate are conferred can give remand, if the arrested person is produced before him. In such cases the remand can be only for a maximum period of 7 days by executive magistrate. Beyond this, remand can be given only by the competent Judicial Magistrate.

Police custody

469. Some times it is necessary for the police to interrogate an accused who is remanded to Judicial custody. In such cases whenever a police officer requires any accused to police custody, the following points shall be borne in mind:

1. Taking a person to police custody is only granted when the magistrate finds sufficient reasons. Therefore, the police officer in his requisition shall state satisfactory reasons.

2.a. Police custody can be given only within the first fifteen days of remand and that too to a maximum period of 15 days. Police custody can be taken for different remands made in different cases.

b. when case is transferred to CID/CBI, the fresh cause of action arises for police custody.

3. After the period of custody, the accused person shall duly be produced before the Magistrate with in time along with medical certificate u/s 54 Cr. PC issued by authorized medical officer of Government and remand report containing the details of investigation done during police

custody/police remand including searches and seizures made, property recovered at the instance of accused, if any, along with the seizure reports / Panchanamas etc.

4. In case the accused is wanted in other crimes of the same PS, separate remand reports in those cases shall also be submitted in each case. If the accused involved in crimes of other PSs, it should be informed to the concerned SHO along with the confession statement etc.

CHAPTER 26

IDENTIFICATION

470. Identification procedures (54A Cr. PC)

Test Identification Parade(T.I.P.) u/s 54 A Cr.PC is to test the veracity of witnesses and their capacity to identify unknown persons whom the witness must have seen at the time of offence. Evidence of T.I.P. may be used for corroboration of substantive evidence. It is meant to eliminate any suspicion or unfairness and to reduce chances of testimonial errors. The Investigating Officer should send a written requisition to the Jurisdictional Magistrate for conducting T.I parade. Where a "bail' application" is pending for the release of accused. The Investigating Officer should ensure conducting T.I. parade by the magistrate mentioning the context.

T.I.P.is a rule of prudence - Prudence as to looking for corroboration of sworn testimony of witnesses in Court as the identity of the accused who are strangers to them, in the form of identification proceedings during investigation stage. It should be conducted at the earliest without any delay. Care should be taken to cover the faces of the accused at the time of arrest to preclude defence plea of "pre-identification . (Ref : Case law in *Ram Babu Vs. State of UP, 2010(5) SCC 63)*.

470.1 When a witness says that he can identify accused persons or others connected with the case under investigation, the investigating officer shall record the description of the accused persons in detail. In doing so the IO should specifically ascertain by carefully questioning about the details i.e. the colour of hair, physical features on the face, manner of wearing clothes, height, lean or stout, gait, language spoken, the manner of speaking the language, physical peculiarities noticed. Computer facilities may be utilized wherever, possible to draw the figures on the description given by the witness. Each witness should be examined separately about each suspect. This is a very important step and will prove extremely useful in tracing the offenders. All that each witness says should be recorded in detail and the picture drawn after description should be kept on record along with the statement recorded.

Sec.54-A Cr.PC: Identification of person arrested:

Where a person is arrested on a charge of committing an offence and his identification by any other person or persons is considered necessary for the purpose of investigation of such offence, the Court, having jurisdiction, may on the request of the officer-in- charge of a police

station, direct the persons arrested to subject himself to identification by any person or persons in such manner as the Court may deem fit.

Provided that, if the person identifying the person arrested is mentally or physically disabled, such process of identification shall take place under the supervision of a Judicial Magistrate who shall take appropriate steps to ensure that such person identifies the person arrested using methods that person is comfortable with:

Provided further that if the person identifying the person arrested is mentally or physically disabled, the identification process shall be video graphed.

1. Care must be taken that the witness has neither the occasion to see the suspect in custody nor the opportunity to see the photographs or video graphs of suspect in custody before identification. (IEA Sec. 9)

2. Invariably identification parades of person should be conducted by a Judicial Magistrate. After making all arrangements for the parade, the police officers should completely withdraw themselves, leaving it to the Magistrate to conduct the actual identification proceedings. (IEA Sec. 9)

3. The accused should be mingled with persons of similar description, status, build and age, in the proportion of a minimum of 1:5 and a maximum of 1:10. Persons already known to the identifying witnesses should not be selected to stand along with the suspects in the parade. They must be made to take their positions, along with the persons with whom they are mingled in a line. They should not be made to stand together. The Magistrate conducting the parade should satisfy himself or themselves that no police officer takes part in the actual identification proceedings, that witnesses are kept out of view from the premises where the parade is taking place and that it is not possible to communicate with them by signals or other communications. Witnesses should then be called in, one by one, and asked to go round the persons assembled for the parade and point out the accused, if any. If a witness identifies any of the accused, it should be verified whether his description tallies with that recorded already in the case diary, and proceedings regarding the identification should be drawn up and signed by the Magistrate. Statements made by the identifying witnesses to the Magistrates at the time of the identification should be recorded in the proceedings. Even if a witness makes a mistake, it should be recorded. In short, the proceedings must contain a complete record of all that takes place in the identification parade. After the identification by one witness is over, care should be taken to see that the witness does not mingle or communicate with the other witnesses for whom identification parade is yet to be conducted or

other outside persons. The whole parade will then be reshuffled and the accused made to take different positions and the same procedure will be repeated for the other witnesses also. Any well-founded objection by any accused during the identification parade should be recorded. After the completion of the identification parade and the drawing up of the proceedings, a certificate in the following form must be appended and signed by the Magistrate conducting the parade: (IEA Sec. 9).

A. "I, the undersigned, took all necessary precautions, and I am satisfied that no police officer was present at any time of the proceedings, when the parade was held".

B. "No opportunity was given to the witnesses to see or know about the proceedings of the parade".

471 Test Identification Parade :

When the identification parade is to be held in a jail, the jailor on admission of the suspect should be informed of the intended identification. The jailor should prohibit any change in the appearance of the prisoner from that in which he was admitted to jail, e.g., beard not to be shaven or grown and the same clothes to be worn as at the time of the entry. The officer conducting the identification parade should keep a detailed record of the entire proceedings.

***Refer Rule 34 of the Criminal Rules of Practice and Circular Orders, 1990*: - Identification Parades.**

Identification by photographs :

472-1. Photographs of certain classes of criminals, or offenders, for instance, professional persons, notorious dacoits, terrorists, Drug Traffickers, Organized Criminal gang members are maintained in the District Crime Records Bureau. Photographs exist also for dossier criminals, and bad characters. Witnesses may be shown the photographs of suspect mixed with the photographs of several non-suspects and asked to identify the photograph of suspect for the purpose of investigation. In cases where criminals are identified through photographs, a regular identification parade should also be held after the apprehension of the accused.

Since the property offenders´ data is entered in the Police intranet, the I.O. should show the data with photographs to the witness who may identify the accused from the list. Such entry should be made in the C.D.

Identification through finger, foot impressions and DNA

2. Identification can also be established from finger and foot impressions left on the scene. Finger and foot impressions found on the scene can be developed, lifted and compared later with Director, Finger Print Bureau to find out whether they tally with those of the suspected persons or not. Identity is also established through DNA finger printing from stains or pieces of skin or flesh. The details of these are given in the Chapters dealing with Finger Prints and Scientific Aids to Crime Investigation. As identification of accused or suspects or deceased is a vital factor in crime investigation, the IO should be fully conversant with the instructions contained therein.

Disputed parentage can be ascertained through DNA Finger printing of claimant with others.

Previous conviction - how proved

3. As prescribed in section 298 of Cr.PC, in addition to any other mode provided by law, a previous conviction can be proved by calendar extract certified by the concerned court. The previous conviction can also be proved by a certificate from the Jailor or the warrant of commitment. In each of such cases, evidence as to the identity of the accused person with the person so convicted may be given by the concerned police officer.

Power of police to take measurements :

473. Under the Identification of Prisoners Act 1920, the police officer can take the finger print, photograph and other measurements **(includes finger impressions and foot-impressions)** of person:

Section 3: Taking of measurements, etc., of convicted person: Every person who has been-

A. convicted for an offence punishable with one year or more, or

B. ordered to give security for good behaviour under section 110 Cr.P.C.

Section 4: Taking of measurements, etc., of non-convicted persons. Any person who has been arrested in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards shall, if so required by a Police officer, allow his measurements to be taken in the prescribed manner.

2. Such persons who are required to give measurements, if refuse to give measurement, the police officer(it shall be lawful to use all means necessary to secure the taking thereof).

3. Section : 6 Take the orders of the magistrate. Refusal or resistance by the person makes him liable for action under section 186 IPC.

4. The State Government has promulgated "A.P. Identification of Prisoners Rules 1975" in which rule 12 and 14 specify the classes of persons whose fingerprints and photographs are taken. These photographs, measurements and records should be kept in P.S. records, DCRB and SCRB and in appropriate cases in NCRB.

Identification of property :

474. In respect of properties, which are already sent to court, the identification has to be done in the court premises under the orders of the magistrate, either by the magistrate himself or through independent witnesses. In other cases, independent witnesses under panchanama shall hold identification of property in the absence of police. The properties to be identified should be mixed with similar articles and the witnesses should be asked to identify.

During the investigation stage.

It should be conducted at the earliest without time delay.

Refer Rule 35 of the Criminal Rules of Practice and Circular Orders, 1990: - Identification of Property.

IN THE HON'BLE COURT OF ————————

Honoured Sir,

Sub:- Requisition for Conducting T.I.Parade at ————————Jail/ for identifying the accused /suspect…… by the witnesses-Request-Reg.

Ref:- Cr. No. -———— u/s ————- of ————————PS.

***

It is submitted that ————- (Brief facts of the case)

1. Names of the witnesses for identifying the accused with descriptive particulars of each accused/suspect to be identified.
2. Name of the accused/suspect for identification with particulars furnished by the witnesses.
3. Date of remand and jail where the suspect /accused lodged.
4. If any bail petition of the accused /suspect concerned pending in any Court should mentioned.

Investigating Officer/ SHO

CHAPTER - 27

CASE DIARY

475-1 Case diary under section 172 Cr. PC

Section 172 Cr. PC requires that every Police Officer making an investigation should enter day by day his proceedings in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, arrests and seizure, if any and a statement of the circumstances ascertained through his investigation, further plan of action, involvement of gangs if any and other details.

The Case diary shall be a volume and duly paginated.(u/s 172-1B Cr. PC).

2. The case diary, which must contain the details mentioned above, should be written in Form 64 with the annexure.

3. Statements of witnesses examined by the Police during investigation (u/s 161 Cr. PC) should be recorded in Form 65 and should be attached to the case diary for the day and the same shall be inserted in the case diary.(u/s 172-1A Cr PC).

4. There will be a docket sheet in Form 66, for each case file.

476-1. Case diary - Points to be observed in writing

Case Diary is a confidential and privileged document. Though the accused has no right to look into it, the court may look into the diary. However, if the police officer refreshes his memory while giving evidence by looking into the case diary, the accused is entitled to look into that portion as referred by the police officer and may use it for contradicting the police officer.

2. The Investigating Officer and his superiors shall ensure the physical safety of the case diary as well as its contents. Any leakage of the contents to any person other than authorized by law leads to undesirable consequences and will be detrimental to prosecution. They should not permit access to any unauthorized person particularly the accused or their agents or their counsel. The officer who has custody of case diaries either as an IO or a superior officer supervising investigation should ensure that it is handed over to their successors in office. The access to the case diaries is limited only to the IO, the superior officers and the concerned legal officers who are in charge at a given time and not to others.

SsP/DSsP as the case be should go through the Case diaries during their visits/Crime meetings/Inspections and in the process of

investigation. They should also check up whether the instructions given in the course of investigation are complied with. As far as possible they should be written in Telugu in accordance with G.O. Ms. No. 485 Home (Courts-B) Dept. dated: 29.03.1974.

477. The following instructions shall be observed in writing case diaries.

1. Every case diary should be in the Form 64 and contain the following information noted in the margin:

   A. date and hour of taking action;
   B. date of report of the case;
   C. name of the complainant or informant;
   D. names of accused/Suspect known, if any;
   E. property lost;
   F. property recovered;
   G. date and last page of the previous case diary, if the case diary is not the very first one;
   H. name of the deceased, if any, and
   I. names of witnesses examined.

   Appendix to Case diary shall be duly filled in by the I.O., in the relevant columns without leaving them blank. A dash can be put in on concerned columns, if it is not relevant.

2. The first Case Diary should commence with a brief summary of the FIR, the time of receipt of the complaint, delay if any, in starting for the scene, the time of departure for and arrival at the scene, description and plan of the scene as prescribed in Order No. 420 and 421 of Chapter 22. In cases where there is no scene as such like in Financial Crimes, the records and places where such records or data recording, storage or retrieval systems are located, the method of crime as reflected at such places, objects, computers, documents etc. and the plan or sketch or diagram representing the crime scene so to say may be described or drawn up as is possible.

3. A statement of circumstances ascertained through the investigation at the place or places visited by the investigating officer, and the date and hour of closing the investigation shall be noted. Every step taken by the IO shall be mentioned as concisely as possible. Every clue obtained, even if at the time it appears likely to be of no value, houses searched with reasons for the search and the names of witnesses to the search, property recovered, its description and place where it was found, arrests, information obtained which is likely to prove of value, and methods adopted by the suspects/accused are among the things to be mentioned in the case diary. The substance of the statements

of witnesses shall find place in the case diary. The IO shall record in Form 65 the statements of persons examined by him in detail separately and attach to the case diary of the day as Part II.(u/s 172-1A Cr.PC).

4. The case diary shall be written incorporating the investigation done on each day. Statements of witnesses should be reduced to writing on the spot in Form 65. As per Sec. 161(3) CrPC. Statements of important witnesses can be recorded through audio - video electronic media by the I.O. If it is not possible they should be written in the IO's note book (i-pad), and transcribed in the prescribed form as soon as he returns to the Station House. If, for any unavoidable reason, notes had to be taken on separate sheets of paper, these should not be destroyed after the case diary is written but preserved in the case file.

5. Case diaries and statement of witnesses will be duplicated by carbon process, or by photocopiers. The original is retained in the station and the other sent to the SDPO concerned who shall deal with the case diaries in the manner prescribed. In cases investigated by Sub-Inspector who is also SHO of Police Station the case diaries will be directly forwarded to SDPO concerned who in turn shall, after scrutiny and necessary instructions to the I.O., dispose them off as prescribed.

6. In the concluding diary, the investigating officer shall record a summary of the reasons which have guided his final decision in the case. If he considers that there is no case, his reasons will, of course, be more detailed and fuller than the one sent up for trial.

7. The names of informers need not be entered in the diary and no court can compel an investigating officer to disclose the name of an informer.

8.A. When a case is reported and police reach the scene, they should guard the scene and take other measures to apprehend or pursue the offenders.

B. When a case is transferred from one investigating officer to another, the officer taking over the investigation shall take charge of the diary, noting therein the date of assuming charge of the investigation of the case.

C. The question, whether it is necessary to re-examine the witnesses already examined and record their statements when a subsequent investigation is taken up by another officer, is often raised. Ordinarily, such further investigation is taken up in the following instances:

i. When a case was first investigated by a Head Constable or a Sub-Inspector of Police and is later taken up by his superior officer, i.e., the Sub-Inspector of Police or the Inspector of Police;

ii. When local Police or Traffic Police or Railway Police takes over the investigation from one another on point of jurisdiction;

iii. When a case is reinvestigated by the Crime Investigation Department.

D. In such cases, it is incumbent on the succeeding investigating officer to verify the investigation made by the previous I.O. and to re-examine all the important witnesses already examined, to ascertain the facts and circumstances of the case. But, as regards the recording of their statements, law does not require the investigating officer to reduce such statements into writing. The Andhra Pradesh High Court has observed that, "Courts will not expect a Police Officer to stultify his investigation for the purpose of making such a record". It is, therefore, enough if the second investigating officer, in case he is the superior to the first investigating officer, re-examines witnesses with reference to their previous statements already on record and certifies to their correctness. If any additional facts are spoken to by any witness, the second investigating officer will have to record those facts and note such other facts as may be necessary in clarification of the facts and omissions in the statement already recorded. However, in a case where the statement recorded by the first investigating officer is devoid of essential details or has omissions or defects, it is advisable for the second investigating officer to record the statement once again in detail. In such case both the statements will remain on record and supplied to the accused.

E. In a case taken up by the CID, the I.O. of the CID is expected to verify and re-investigate the entire case and not merely to continue the investigation already done by the local Police Officer. To that end, it is necessary that he should not only re-examine the witnesses but also record their statements in full. The fact that the recording of such statements may lead to possibility of contradictions and deviations in the statements of witnesses and may cause inconvenience to the police in furnishing copies to the accused cannot be valid and lawful ground for evading it.

9. Those who, under the orders and directions of the investigating officer, assist him by making any enquiries, do not thereby become investigating officers under Chapter 12 of Cr. PC. Therefore, it is not necessary for them to write case diaries under section 172 of Cr. PC. The result of any enquiries such officers make or action they take pursuant to the orders or instructions of the investigating officer will be communicated by the former to the latter by means of a special report. Head Constables will also make necessary entries in their notebooks. The investigating officer shall incorporate the gist of such special reports in his case diary u/s 172 Cr. PC.

10. In inquiries under section 174 Cr. PC relating to suicide and accidental deaths, statements of witnesses examined during the inquest will be recorded separately and attached to the inquest report. However, in a case where it has not been clearly established that it is a suicidal or accidental death, though the *panch*ayatdars at the inquest have so opined, a case diary should be written discussing the evidence gathered and available during the inquest and the grounds for treating the case as an accidental or suicidal death not warranting investigation. When a Head Constable holds an inquest, the Sub-Inspector should subsequently verify the investigation, and the result of such verification should be embodied by him in a case diary. A case diary should also be written summarizing the result of the post-mortem examination, if conducted.

11. In order to report the progress of trials in courts, case diaries should be written, reporting details of all hearings and adjournments, the witnesses examined at each hearing, how each of them fared, gist of arguments of defence and prosecution, Court observations or orders and other matters of interest, if any, particularly with reference to their statements before police earlier and other material particulars including name and designation of the Police Officer who attended the Court. (Updating Court diaries at Court Monitoring System wherever existing)

    If a witness is threatened to give false evidence (by interested parties), the Investigation Officer/supervisory officer, should direct the witness to file a complaint u/s 195 A Cr.PC for punishment u/s 195 A IPC. Such instances shall be promptly entered in the Case Diary (and inform to APP also).

12. Remands should be applied for along with case diary. Sub- Section (1) of Section 167 of Cr.PC requires a copy of the case diary to be sent when remand is sought. The investigating officer should, therefore, prepare an additional copy of the case diary, when he is aware that he will have to send a prisoner for remand. The statements recorded under section 161 Cr.PC till then should also be enclosed to the case diary.

13. Case diary forms should be used for applying to Magistrates for warrants of arrest or search, for proclamations and other orders connected with investigation and for forwarding search lists provided these communications refer to registered cases. Ordinarily, the memorandum form will be used.

14. Case diaries should also be written in cases, referred by a Magistrate to the police for investigation under section 155, 156 or 202 of Cr.PC.

A diary kept under this section cannot be used as evidence of any date,(*A.N.Mogam Thaka, AIR 1967 Manipur 11*), fact or statement contained therein, but it can be used for the purpose of assisting the Court in the enquiry or trial by enabling it to discover means for further elucidation of points which need clearing up before justice can be done.(Ahmed Miya, (1944) 1 Cal 133.).

It can be used as aid in framing a charge though not for founding the charge.(*Joti Jiban Ghosh, AIR 1962 Cal 135 (FB).*

FORM - 64. See Order No.475-2 & 477-1.

CASE DIARY

PART – I

(u/s 172 Cr PC)

Police Station ..... District.....

First Information Book No..... of 20 .Date and place of occurrence.....Case Diary for the date.....

OFFENCE

---

1. Date (with hour) on which action was taken.
2. Name of Complainant or Informant, with address and phone No.
3. Names of Accused known, if any, with address and phone No.
4. Property lost.
5. Property recovered.
6. Date and last page of the previous Case Diary,

   if the Case Diary is not the very first one.
7. Name of the deceased, if any, with age and address.
8. Names of Witnesses examined.

N.B. :- Columns 1 to 8 have to be written up or typed by the Investigating Officers and the particular of the same should be written opposite to each column. Pages of the Case Diary in each case should be numbered serially by the officer writing the Case Diary.

APPENDIX
to
CASE DIARY PART – I (Form -64)

Investigation :

1. Brief facts of the case (5 Ws+1H) when, where, what, who, why, and how)
2. Action taken by the SHO/IO.
3. Evidence oral /documentary/Electronic gathered.

   Names of witnesses brief details of documents seized.

4 a) Brief description of scene of crime /sketch/Map etc.

   b) Whether memo filed in court for additional offences, if any.

5 Seizure of material objects,/weapon of offence/others.

6 a) Arrest of accused / whether procedure adopted/ Whether sent for medical examination.

   b) Whether remanded to Judicial custody/Bailed out.

7. M.O.s sent to FSL/FPB/professor Forensic medicine. etc.
8. PME report/medical examination report/wound certificate received.
9. As per Sec.154 (c) Cr PC getting statement of complainant /Victim u/s Sec. 164 Cr. PC. is compulsory in offences punishable under Sec. 354, 354A, 354B, 354C, 354D, 376, 376A, 376B, 376C, 376D, 376E and 509 IPC.
10. Whether specimen hand writings (u/s.311 A Cr PC) obtained before the Court.
11. Whether Test Identification (T.I.) parade (u/s 54 A Cr PC) conducted.
12. a) In case of rape, whether victim was medically examined as per 164 A Cr PC.?

    b) If victim is a child (male / female) has due care been taken as per POCSO Act.?

    c) Whether her statement recorded at place of her choice (Sec.157 (1) Cr. PC.)?

    d) Whether requisition filed for payment of compensation with P.D. ICDS/District Collector/Legal Services Authority etc.?
13. In rape case whether the accused sent for medical examination as per Sec.53A/53 Cr. PC.?

14. Whether Prosecution orders under Arms Act/Explosive Substance Act/Sec 121 A, 124,153A, IPC, Passport Act. obtained from District magistrate/ CsP/Government as envisaged.

15. a) Whether charge sheet filed ?

    b) Whether supplementary charge sheet was filed u/s 173(8) Cr PC.

    c) In case of Bail petition filed in High Court whether counter affidavit filed or not.

    d) In case of repeat offender, whether cases in which he was involved are mentioned in the charge sheet.

16. Whether the accused was bound over any time – If so, mention details.

17. a) In case of inquest by Executive magistrate in Dowry deaths/ Custodial deaths / Death of women within 7 years married life / alleged death in police custody/ encounter deaths mention details.

    b) Whether report sent to NHRC within 48 Hrs in case of custodial deaths?

18. In case of lathi charge whether Sec. 129 Cr PC provisions mentioned in the CD.

19. Have you followed the Principle of dual criminality before sending material to CID for issuance of RCN. Have you sent proposal to SP/ CP for addressing JD (Immigration) New Delhi for issuance of Look Out Circular against wanted accused.

20. In case of absconding warrantees, whether 82/83 Cr PC proceedings initiated (Proclamation / attachment of property).

21. Whether proposal sent for opening any history sheet/rowdy sheet/ suspect sheet against any one of the accused or not.

Trial :

22. Whether in-camera trial requisition filed by Investigation Officer / Public Prosecutor u/s 327 Cr PC in POCSO Act cases u/s 37 and (Trial of rape u/s 376, 376A, 376B, 376C,376D, 376E, IPC to be in camera u/s 327 (2) Cr PC).

23. Whether accused lodged jail/ prison outside the District /State brought to court (u/s 267 Cr P.C). ?

24. Whether requisition filed u/s 309(2) Cr. PC for speedy trial.

25. In case of conviction provide details.

26. In case of Acquittal, furnish the reasons.

Appeal :

27. a) Whether the victim preferred an appeal against any order of the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation u/s 372 Cr. PC.

b) whether appeal was preferred by the State against lesser sentence (u/s 377 Cr. PC) or against acquittal (u/s 378 Cr. PC.)

Victim Compensation :

28. Has the Investigative Officer sent proposals to the concerned PD, ICDS/ Secretary Legal Services Authority or others for payment of victim compensation.

FORM - 65 Order No.475-3, 477-3 & 4, and 491-4.

STATEMENT OF WITNESSES EXAMINED BY POLICE.
PART – II

Police Station ……. District……

First Information Book No…….. of 20.

_____

Date of Examination :

Names of witnesses examined, with parentage, calling and residence :

1.

2.

_____

N.B:- To be written by the Investigating Officer. Pages of Part II containing statements of witnesses should be serially numbered.

FORM – 66 See Order No.475-4

CASE DIARY DOCKET SHEET

Court name & CC/PRC No.

Dates of Hearing :

1. First Information Report No.
2. Section
3. Date of Offence
4. Property lost
5. Property recovered
6. Nature of disposal with date
7. Disposal in Court with reference No. of proceedings
8. General Diary Page Date
9. Arrest Memo/court surrender form .
10. Prisoners Search Register Page No.
11. Sentry Relief Book Page No.
12. Bail Bond Page No.
13. House Search Book Page No.
14. Memo to Magistrate No.
15. Charge Sheet No.
16. Witness Recognizance Bond Page
17. R.C. Notice Page
18. Final Report Book No.
19. Conviction Memo Page No.
20. Part-I Page
21. Part-III Volume
22. B.C. Roll No.
23. Reward Roll Sent on
24. DC/CDC .No.

CHAPTER 28

Completion of Investigation and Final Disposal

Investigation - General

478-1. Section 173 Cr. PC lays down that every investigation by police made under Chapter XII Cr.PC. shall be completed without unnecessary delay. The provisions of the section are mandatory and any avoidable delay in the completion of investigation and submission of charge sheets, final reports therefore, violate these basic principles of law.

2. As per sec. 173 (1A) Cr.PC investigation of rape of child (male/ female) to be completed within 3 months from date of FIR. Intention, preparation and commission (Sec.8 of evidence Act) have to be clearly established. Similarly, state of mind, body or bodily feelings, should be incorporated in the charge sheet (Sec.14 of Evidence Act)

3. All investigations must be completed within the time limit provided under section 468 Cr PC as no court will take cognizance of an offence after the expiry of that period. The period of limitation is;

A. Six months if the offence is punishable with fine only;

B. One year, if the offence is punishable with imprisonment for a term not exceeding one year;

C. Three years, if the offence is punishable with imprisonment not exceeding three years.

The period of limitation is not applicable in Economic offences vide The Economic Offences (Inapplicability of Limitation) Act, 1970.

4. The prosecution will have to explain the reasons for the delay if the charge sheet is filed after the expiry of the period of limitation. The Court has to be satisfied with reasons adduced for delay.

Limitation :

5. Sections 469 to 472 Cr.PC deal with the commencement of limitation, exclusion of time in certain cases etc. However, period of limitation can be extended by the Court, if the Investigating officer explains cogently reasons for delay (u/s 173 Cr.PC)

6. The limitation permissible under law is quite liberal. It should not be construed to mean that the cases can be delayed up to the maximum period of limitation.

7. As per section 167(5) Cr PC, when the police officer arrests a person in a summons case and if the investigation is not completed within 6

months and whether the person is on bail or in custody, the magistrate is competent to order the closure of the investigation and on such order further investigation is not allowed unless ordered by the session court. Therefore, in such cases, it must be ensured that the investigation is completed within that period.

8. In cases where the accused are caught red-handed with property, there should normally be no delay at all in the submission of charge sheets. In such cases, the accused should be forwarded, in custody to the Magistrate having jurisdiction along with the charge sheet, unless the accused is a stranger and his antecedents need verification or there is information of his having committed other offences or is a member of an organized crime gang.

9. Section 167(2)(a) Cr.PC empowers the Court to order release of the accused in custody if the charge sheet is not filed within 60 days or 90 days as the case may be. Hence, the IO should complete the investigation in the above cases within the time prescribed.

10. If the investigation could not be completed within the said period of 60 or 90 days the accused will be entitled for bail. Care must be taken to speed up investigation in such cases if the accused is to be continued in remand. However, incomplete charge sheet shall not be filed for the sake of keeping the accused in remand.

11. Sections 173(8)Cr.PC. provides for 'Further report' (a supplementary or additional charge sheet). This provision is not a substitute for original charge sheet. This provision is meant for filing a subsequent charge sheet only when there is fresh and further evidence about the offence or offender, which is not known at the time of filing the first charge sheet.

479-1. Investigation - Preparation for filing Charge Sheet :

The investigation must be completed without unnecessary delay. The investigating officer should scrutinize the evidence and fix the liability of each accused by independently arriving at a decision.

2. The charge sheet shall be prepared, forwarded and presented to the court only by the SHO/I.O.

3. The IO should prepare report in Form 67 giving the details of the case, discuss the nature of evidence and the liability or otherwise of each accused, the probable defence and its plausibility or otherwise and finally the action proposed by him.

4. The IO while considering the case should not act as a mere post office to transmit each and every case to the Court. At the same time it is also not desirable that he should usurp the function of the

trial court by examining the evidence inch by inch. Availability of sufficient evidence does not mean sufficient ground for conviction but such evidence as would be sufficient to put the accused on trial. Where there is reasonable doubt, as to what evidence is to be believed, it is better the SHO sends the case to the Court which is the proper authority to resolve the doubt. Where two views are possible the case should be sent for trial. A case should be charge sheeted if the following grounds exist on an overall assessment of evidence.

A. when there is a prima facie case;

B. when there is some legal evidence in support of the case, which if believed, may lead to a conviction;

C. when the evidence on both sides is equally balanced;

D. when the state of evidence is such that the benefit of reasonable doubt can possibly be given to the accused.

5. After completion of the investigation the SHO shall forward the file along with Form 67 to the APP for his opinion whether the material is sufficient to charge the case and also to discuss with the APP in person. The APP/Dy. Director /Addl. PP Gr.I, after perusing the case file shall give his opinion in Form 68. If further investigation is necessary he shall give his opinion in accordance with the guidelines. If the material is sufficient for charge sheet, he shall give a draft charge sheet. On receipt of the same the SHO shall file charge sheet or investigate further as the case may be. If further investigation is carried out it will be once again submitted to the APP for charge sheet. In small and simple cases, the SHO may file charge sheet himself but where the police expect the APP to conduct the prosecution successfully and with responsibility, the above procedure shall be followed. **The Dy. Director of Prosecution department shall act as Legal Advisors to SsP in the districts** *(G.O.Ms.No.125, Law (LA&J-Home-Courts-A2), Dept, dt.24-9-2014 of AP)*

6. In case of all grave crimes and in sessions cases the SDPO should submit the file for orders to SP/Additional SP with his comments. After obtaining the opinion of the SP the file shall be submitted to the Addl. PP of the concerned court, and the SDPO should personally consult the Addl. PP and discuss about the investigation. If the Addl. PP gives opinion for further investigation; it shall be carried out and submitted again for charge sheet. The Addl. PP shall give a draft charge sheet, which shall be carried out by the SHO. This procedure shall invariably be followed in all complicated and sensational cases and cases of organised crimes.

480-1. Charge Sheet / Referred Report u/s 173 Cr.PC:

On completion of investigation and scrutiny as mentioned above, a police report u/s 173(2) Cr PC has to be submitted whether a case is made out or not in Form 69. In the event of a case being made out the report is called a Charge Sheet. Where a case is not made out, the report is called a Referred Report. The investigation according to law has to result in a report under 173(2) in Form 69.

2. All the original documents filed along with charge sheet shall be listed in Form 69.

Note : This form has to be furnished in triplicate through the magistrate along with sufficient number of copies to be supplied to the accused by the court, so that two copies will be retained by the magistrate and one copy will be returned to the investigating officer, acknowledging receipt of the same.

II. Charge sheets

481-1. The Charge Sheet should set forth the names of the parties with their full addresses, the nature of the information, the names and full addresses of the persons who are acquainted with the facts and circumstances of the case, and whether any offence is committed and, if so, by whom. It should also state whether the accused, if arrested, has been forwarded to custody or has been released on his bond and, if so, whether with or without sureties. The Investigating Officer shall mention whether the accused has been forwarded in custody u/s 170 Cr.PC. Whether medical examination report of the woman in rape cases/ sexual assault / aggravated sexual assault under POCSO Act has been attached. The names of such of the accused who are absconding should be entered in red ink in the appropriate column of the Charge Sheet. Care should be taken to see that all the columns in the charge-sheet in Form 69 are filled up properly. No column should be left blank. The SHO shall communicate to the informant in form 70 (notice to the complainant) about the action taken. The charge should be brief and clear. The date, time, place of offence and the manner of committing the offence should be mentioned therein.

The investigation in relation to rape of a child may be completed within 3 months from the date on which the information was recorded by the officer-in-charge of the Police station. (Sec.173 (1A) Cr.PC.

2. The charge sheet in Form 69 should be sent to court accompanied by a separate memorandum of evidence giving the names and addresses of the witnesses cited and specifying clearly the points, each witness

is called upon to prove. The original documents if not already submitted to the Court, shall be submitted along with the charge sheet.

3. Upon filing the charge sheet and when the accused appears, the SHO shall furnish to the accused copies of all the documents relied by prosecution to prosecute the accused. Non-furnishing any copy will cause prejudice to the accused and damages the prosecution case. If any document inadvertently is not furnished, it may be furnished at a subsequent stage giving him an opportunity to go through it to prepare for his cross-examination.

4. If the IO is of the opinion that any part of any statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall exclude such part from the copy of the statement furnished to the accused, and in such a case, he shall make a report to the Magistrate stating the reason for excluding such part; provided that at the commencement of the inquiry or trial, the Magistrate shall, after perusing the part so excluded and considering the report of the Police Officer, pass such order as he thinks fit and, if he so directs, a copy of the part so excluded or such portion thereof, as he thinks proper, shall be furnished to the accused.

Further investigation after filing charge sheet u/s 173 (8) Cr. PC : On receipt of further evidence (oral / documentary), the Investigating Officer shall take up further investigation and file further report. The Law does not mandate taking of prior permission for further investigation, or carrying out further investigation even after filing of charge sheet, it being a statutory right of the police *(State of AP Vs. A.S. Peter, AIR, 2008, SC 1052 (2008) 2.SCC 383*.

482. Issue of NBWs against absconding accused etc.

Where an accused person against whom a charge sheet is being filed is absconding, the officer in-charge of the police station shall append a note to the charge sheet itself requesting the Magistrate to issue a non-bailable warrant for the apprehension of the accused. If the warrant cannot be executed within a reasonable time, the Investigating Officer shall move the court for instituting proceedings under sections 82 and 83 of Cr. PC. If it is proved that there is no immediate prospect of arresting the accused even after action has been taken under sections 82 and 83 of Cr. PC, the court may, in the absence of the accused, examine the witnesses produced on behalf of the prosecution and record their depositions under section 299 Cr. PC. The case shall then be entered by the Magistrate in a separate register of long pending cases. If, at any future time, the accused person is

apprehended or appears before the court, the case against him shall be treated as a new case and dealt with according to law. Any such deposition recorded in the absence of the accused may, on the arrest of such person, be given in evidence against him in the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

FORM - 69

CHARGE SHEET / CASE DISPOSAL REPORT

(Under Section 173 Cr. PC.)

In The Court of ……..

1. *Dist……..…*PS……*Year.…*FIR….No……Date…..
2. Final Report/Charge Sheet No…….....
3. * Date……..……
4. i) * Act…… * Sections……..……..…

   ii) * Act……..... * Sections…….……

   iii) * Act……..…* Sections……

   iv) * Other Acts & Sections……
5. *Type of Final: Charge Sheet / Untraced / Not Charge Sheeted for want of Evidence/Offence Abated/Un-occurred.
6. *F.R. Un-occurred: False/Mistake of Fact/Mistake of Law/Non-cognizable/Civil Nature ……
7. *If Charge Sheet: Original/Supplementary ……
8. Name of the I.O……. Rank……..No……
9. (a) Name of the Complainant/Informant……

   (b) Father's/Husband's Name……
10. Details of Properties/Articles/Documents recovered/seized during investigation and relied upon (separate list can be attached, if necessary)

SI. No.	Property Description	Estimated Value (in Rs)	P.S. Property Register No.	From who/where Recovered or Seized	Disposal
1	2	3	4	5	6

11. Particulars of accused persons charge-sheeted: (Use separate sheet for each accused):

i. *Name……Whether verified……

ii. Father's/Husband's Name……....

iii. Date/Year of Birth……

iv. Sex……..…

v. Nationality……

vi. Passport No....Date of issue…… Place of issue……

vii. Religion……

viii. Whether SC/ST……

ix. Occupation……

x. Address……Whether verified……

xi. *Provisional Criminal No.

xii. *Regular Criminal No. (if known)

xiii. *Date of Arrest……

xiv. *Date of release on bail……..

xv. *Date on which forwarded to Court……

xvi. *Under Acts & Sections……

xvii. *Name of bailers/sureties and Address (es) ……

xviii. *Previous convictions with case reference…….

xix. *Status of the accused: ……

Forwarded/Bailed by Police / Bailed by Court/in Judicial Custody / Absconding / Proclaimed Offender:

12. Particulars of accused persons – not charge sheeted (suspect) : (separate sheet for each accused)

i. *Name……Whether verified ……

ii. Father's / Husband's Name ……..……..

iii. Date / Year of Birth……...……

iv. Sex……..……

v. Nationality ……..

vi. Passport No…… Date of Issue…… Place of issue…

vii. Religion……..

viii. Whether SC/ST…….

ix. Occupation……

x. Address……Whether verified……

xi. *Provisional Criminal No……

xii. *Suspicion Approved: Yes/No

xiii. *Status of the accused (Suspect): Bailed by Police/Bailed by Court / In Judicial Custody / Not Arrested ……

xiv. Under Acts and Sections……

xv. Any Special Remarks including reasons for not charge sheeting

13. Particulars of Witnesses to be examined :

SI. No.	Name	Father's Husband's Name	Date/Year of Birth	Occupation	Address	Type of evidence to be tendered.
1	2	3	4	5	6	7

14. If F.I.R. is false, indicate action taken or proposed to be taken U/s. 182/211 I.P.C.

15. Result of Laboratory Analysis:…….

16. *Brief facts of the case (Add separate sheet, if necessary): ……

17. Is acknowledged Copy of "Notice to Complainant" attached? Yes / No Date……

18. Despatched on ……..……

Forwarded by
Station House Officer
/ Officer-in-charge

Signature of the
Investigating Officer
Submitting the Final
Report/Charge Sheet
Name…..……
Rank…....No……

483-1. Proclamation orders under section 82 of Cr.PC

Proclamation orders under section 82 of Cr.PC can be issued against any person for whose arrest the Magistrate has issued a warrant. The investigating officer has to convince the court with all details of the efforts made and that the warrantee is evading arrest and has gone into hiding, and that the warrant could not be executed. Hence, the initiative has to be taken by the investigating officer. Once the proclamation orders are issued they should be immediately promulgated. Orders of attachment under section 83 of Cr. PC can also be issued simultaneously along with the proclamation orders. The period of 30 days mentioned in section 82 of Cr. PC is the time allowed to the accused to surrender. The court issuing a proclamation may at any time order the attachment of any property movable or immovable or both belonging to the proclaimed person. Attachment should be carried out promptly after the proclamation has been properly issued and the property of the proclaimed person seized before he has time to transfer, alienate, mortgage or conceal it.

2. It is necessary that the proclamation order issued under section 82 of Cr. PC is widely published in the manner provided for in that section. In order to facilitate the arrest of an absconding warrantee or a proclaimed offender, it is also necessary that an effective watch be maintained over his harbourers. Persons who wilfully or knowingly harbour such offenders could be prosecuted under section 216 IPC. It is, therefore, necessary that the widest publicity is given to the proclamation order issued under section 82 of Cr. PC so that its knowledge can be conclusively proved against the harbourer for prosecution u/s 216 IPC.

3. The observance of formalities under sections 82 and 83 of Cr. PC does not serve the purpose unless the SHO and IO make all out efforts to trace the offender, not only in their jurisdiction but outside jurisdiction too. Information should be gathered through sources and action taken to work it out eliciting cooperation of Police of the place where the offender is known to be hiding.

Juvenile offenders :

484.1. When a juvenile is arrested or prosecuted, information about the age of such persons should invariably be furnished to the Court by the Police Officer taking action in the case, to enable the court to determine the age of the Juvenile with reference to the Juvenile Justice (Care and Protection of Children) Act 2015. Investigating Officer verify date of birth from the village records /School records / Hospitals/ ration card / Aadhar Card and if such documents are unavailable, he will send the person to the Professor in Forensic Medicine for ossification Tests.

Children's court on receipt of Preliminary assessment report from JJB conducts trial of Children between 16 and 18 years of age who

commit heinous crimes like dacoity, robbery, murder for gain, rape, gang rape. Juvenile Justice Board (JJB) Courts will pass orders based on the preliminary assessment regarding the gravity and heinous nature of the offence.

2. Investigation under POCSO Act, 2012 assumes importance as the trial Court is the 1st Addl. Sessions Judge in the districts, 1st Metropolitan Sessions Judge in the Commissionerates (Sec. 28 of POCSO Act, designation of Special Courts) (Sec. 32 of POCSO Act - Spl. P.Ps). The Designated court has to adopt child – centric "in camera trial' procedure (Sec. 33 of POCSO Act) r/w Sec. 37 POCSO Act r/w 327 Cr.PC. Sec. 164 Cr.PC statement of child should be recorded by Audio-video Electronic means (Sec. 26 of POCSO Act) after mandatory medical examination of victim child u/s 27 POCSO Act) r/w 164 A Cr.PC. Sec. 3,5,7 & 9 of POCSO Act envisage presumptions (Burden of proof is on the accused). Child is permitted to take assistance of legal practitioner (Sec. 40 POSCO Act) other than Special Public Prosecutor.

   While SDPO is entrusted with personal investigation of Sec. 5 r/w 6 POCSO Act, (Aggravated sexual Assault), the Inspector of Police is the Investigative Officer, u/s 3 r/w 4 of POCSO Act (Penetrative Sexual Assault) i.e. the SDPO/CI have to file charge sheet accordingly.

   The Special Court is mandated to record the evidence of child within a period of 30 days of taking cognizance and complete the trial within one year (Sec. 35 POCSO Act).

III. Conditions for initiation of prosecution

485-1. The general rule is that the criminal law can be set in motion by any person whether he is concerned with the case or not but there are certain exceptions to this rule and these exceptions are made keeping certain delicacies in view. These restrictions can be categorised into two classes;

A. The complaint shall be filed in court directly only by certain specified persons in respect of certain offences, which are detailed in sections 195, 196, 198 Cr. PC. In section 376-B, IPC, wife should file a 'complaint' in the court which would be endorsed to Police for investigation.

B. Prosecution cannot be launched against public servants and judicial officers in respect of any offence alleged to have been committed by them while acting or purporting to act in the discharge of their official duty except with the previous sanction of the government (Sec. 197 Cr. PC).

The only exception is, if a police officer fails to register cases u/s 326 A, 326B, 354, 354 B, 370, 370 A, 376, 376A, 376B, 376C, 376D, 376E,509, IPC he is liable to be prosecuted u/s 166 A IPC.

Section 197 (1) b of Cr PC: No sanction shall be required in case of a public servant accused of any offence alleged to have been committed u/s 166 A, 166 B, 354, 354 A to D , 370, 375, 376 , 376 A to D, 509 IPC. (Criminal Law (A) Act, 2013 w.e.f.3.2.2013).

Category A :

2. For offences under section 172 to 188 of IPC including abetment, attempts and conspiracies, the complaint shall be filed directly in courts by the public servants or their superiors whose orders are disobeyed.
3. For offences under section 193 to 196, 199, 200, 205 to 211, 228, 466, 471, 475 and 476 of IPC the complaint should be filed in the court directly in writing by the court or its superior court if the offence is committed in any proceedings in that court.
4. Offences under section 182 and 211 of IPC, which are relating to false evidence or false charge, if detected during the course of investigation, the police themselves can file a complaint in the court.
5. Prosecution for offences under section 153A, 295A, 505(1) of IPC including conspiracies and abetment can be launched in courts only after obtaining sanction from central government, or state government as the case may be.
6. Prosecution for offences under section 153B, or 505(2) or (3) of IPC and also offence under section 120B of IPC where the conspiracy is to commit an offence punishable with less than 2 years, imprisonment shall be launched only after obtaining the sanction of the Government, or District Magistrate.
7. Prosecution for offence under section 493 to 498 of IPC which are offences against marriage shall be launched in courts directly by a complaint made only by the aggrieved persons or their guardians.
8. Offence under section 498A of IPC can be launched in courts only by a police report or by the aggrieved person or their parents or guardians.

Category B

9. As per section 197 Cr.PC. when an offence is alleged to have been committed by any public servant or by a judge or magistrate while in discharge of his official duties and if such person is not removable except by the Government, sanction of the Government, is necessary before filing a charge sheet in a court. This condition applies even where the prosecution is launched after retirement, but the offence was committed while the public servant was in service.

10. There are certain special and local Acts like Prevention of Corruption Act, Arms Act, Explosives Substance Act, Registration of Foreigners Act 1933 etc. where prosecutions cannot be launched under those Acts without the sanction of certain authorities.
11. The investigating officers should note that sanction orders are necessary for the courts to take cognizance, but there is no bar to register cases and make investigations.
12. Where sanctions are necessary, the I.O. should make out a case and place all the material and documents before the sanctioning authority. According sanction is not a mechanical process under law. The sanctioning authority is expected to apply his mind and therefore, it is necessary that the entire case file is placed before him.
13. If the law requires the sanction of the District Magistrate, the IO shall forward his requisition along with relevant material to the District Magistrate through the Inspector of Police with a copy to the SP. If the sanctioning authority is the Government, the same procedure is followed through the DGP.
14. Any delay in obtaining sanction may prove costly as the courts cannot take cognizance of offences if they are barred by limitation. Therefore, sanctions wherever necessary must be obtained without unnecessary procedural delays.

    SHO has to launch prosecution against hospital management either private / public, whether run by Central / State, Government / Local bodies if they fail to provide First Aid, treatment free of cost to rape case victim /acid attack victim u/s 166- B IPC for contravention of u/s 357- C of Cr PC.

    Only Spl. Police officer (Inspector of Police) can lay charge sheet in Immoral Traffic (Prevention) Act. SDPO is the complainant in Cable TV Net work regulation Act, (authorised Officers), Trade Marks Act, 1999 (Relevant Provisions).

IV. Final Reports – Referred reports:

486-1. Sometimes, the investigation may not end in a charge sheet and is fit to be dropped. In such a case the case is referred and referred report is made under section 173 Cr. P.C.

2. Whenever, a case is referred, it shall be forwarded to the magistrate in Form 69 for his acceptance and proceedings.
3. Reports are referred under various categories such as :

A. Non-Cognizable (NC)
B. Mistake of Fact (MF) / Mistake of Law (ML)
C. Civil nature (CN)

D. False

E. Undetectable (UN)

F. Evidence not sufficient to charge sheet the case

G. Any other, under section 157 (2), 158 Cr.PC

Such reports to the magistrate shall be submitted through the immediate superior officer (Sec, 158 Cr.PC) and such superior officer should satisfy and forward with specific remarks. If not satisfied with the investigation, he may return the file to the concerned with specific remarks for compliance.

487-1. Final Orders sent to Magistrate :

When a final report is sent to the magistrate u/s 173 (2) Cr. PC, the Magistrate may or may not accept it. If he accepts the same he will issue proceedings and the matter will be dropped. If the Magistrate does not accept, he may send it back directing further investigation, in which case the SHO shall investigate further and send report.

2. If further investigation as directed by the Magistrate does not improve the position, the SHO may send it again with his findings but the Magistrate cannot direct the SHO to file a charge sheet. He may take cognizance *suo-motu* on the report.

3. When a final report is sent to the Magistrate the SHO shall inform the complainant about the action. The Magistrate also shall send notice to the complainant directing him to show as to why the report should not be accepted. Before acting on the referred report, the magistrate shall hear both the police and complainant. On the orders of Magistrate, the aggrieved party can go to the higher courts for revision.

Further investigation by the investigation officer after filing charge sheet is permitted u/s 173 (8) Cr. PC.

Re-opening of the Case

488.1. When the Magistrate has issued proceedings closing a criminal case and at a later stage the SHO finds some credible evidence about the case forth coming, he can re-open the case after obtaining the formal permission of the court.

2. If a case is transferred to CID/CBI the concerned Investigating Officers, have the right to start the investigation afresh.

Prosecution of complainant in false cases :

489. When the investigating officer reports a case as wilfully or maliciously false, he should state in the final report whether he intends to proceed against complainant or not, and if not, he should give his reasons for not doing so.

CHAPTER - 29

Unnatural Deaths

490-1. Unnatural Deaths - need of inquest

Section 174 to 176 Cr. PC. lay down the procedure for holding the inquests. Inquest means legal examination of dead body. Inquest is to be held on the bodies relating to unnatural deaths. The purpose of the inquests is to ascertain the apparent cause of death in cases where the police receive information that a person has met with an unnatural death;

A. By committing suicide by hanging/ drowning/ poisoning/ Electrocution/ Self-immolation/by jumping under the running train.

B. Has been killed by another or by an animal or machinery or accident or

C. Has died under circumstances in which the death is due to an offence committed by another person

2. The inquest is to be held by the SHO or by HC if he is so authorised by the government.

3. On receipt of information the SHO shall record it in the same proforma as that of the FIR and promptly despatch it to the Executive Magistrate and in Sec. 176 Cr.PC., FIR shall be sent to Judicial Magistrate.

Action at the scene:

4. On arrival at the place, the SHO shall take the following steps.

A. Photographs of the body should be taken in different angles.

B. Ensure that the position of the body is not altered.

C. Safeguard the place of occurrence and prevent destruction or disappearance of evidence.

D. Secure two or more respectable inhabitant of that locality and the witnesses acquainted with the deceased are summoned to be present.

Enquiries under section 174 Cr.PC.

491-1. The inquest must be held in the presence of two or more respectable inhabitants, who should be summoned under section 175 Cr.PC. by an order in writing in Form 71.

2. Witnesses who appear to be acquainted with the apparent cause of death should also be summoned and examined in the presence of panch witnesses.

3. While examining the body the following points must be noted in the inquest report.

A. The position in which the body was found.

B. The position, length and width, and colour of any wounds, bruises or other marks of injury.

C. The nature of any fracture.

D. The articles, clothing, jewellery, or any other incriminating (material) found near the body (An inventory should be made).

E. The age, condition of hair, the description of the face etc.

F. Any old scars, warts, moles etc. and their exact position, approximate height.

G. Any other details like tailor labels.

4. The witnesses summoned should be examined and their statements recorded in Form 65 separately and enclosed with the inquest report. Investigating Officer should not obtain the signature of the witnesses (Sec. 162 Cr.PC)

Inquest Report

492-1. When the inquest is completed, the officer conducting the inquest shall draw up a report in Form 72 in which he shall state apparent cause of death, the description of any marks, or marks of violence which may be found on the body and describe the manner and the weapon with which such marks appears to have been caused. Column 9 and 15 of the Inquest report are important. Investigating officer should clearly discuss and report in Col.15 as to opinion of Panchayatdars regarding cause of death.

2. The report shall be signed by the officer holding the inquest and by the panch witnesses after their opinion is recorded.

3. The inquest report along with the statements of witnesses should be forwarded to the court and to senior officers immediately.

4. The individual opinion of the panch witnesses should not be entered in the report. They can be written in the case diary by the I.O. Persons who do not concur with the report shall not be pressurized to sign.

5. A carbon copy and attested photo copy of such report shall be filed in the connected station records.

6. In case of death of more than one person there shall be separate inquest reports on each body.

7. If the local SHO conducts inquest about the death caused in Railway accident, he shall send the same to the Railway Police.

8. After the inquest the officer concerned shall immediately but not later than 12 hours, intimate the executive authority of the municipality or panchayat the details of the deceased in Form 73.

9. Postmortem of the dead body by a doctor is not a must except in the case provided herein. Forwarding the body for postmortem is necessary only when the apparent cause of death could not be ascertained definitely in the inquest.

Procedure on occurrence of large scale deaths :

493. There will be occasions when large scale deaths occur due to railway accidents, bus, boat or Air accidents, building collapses, Fires, poison, gas leakages, cyclones, tidal waves, earth quakes etc. In such cases where the cause of death is apparently known, there will be no need to hold inquests, unless in respect of any specific dead body foul play is suspected. In such cases inquest may be conducted on one or two dead bodies. But a certificate from medical officer in such incidents may be sufficient keeping the requirements of compensatory claims for death or injury. The dead bodies should be disposed off quickly in the interest of health and hygiene. Postmortem is a must in the cases as mentioned in the next Order 494-1.

Inquest by Executive Magistrate :

494-1. In the following cases, the Executive Magistrates only shall hold inquests.

A. Where the case involves suicide by a woman within 7 years of her marriage or

B. Death of a woman within 7 years of her marriage and there is suspicion that some other person committed the offence.

C. Death of a woman within 7 years of her marriage and any of her relation made a request in this behalf

D. The police officer for any other reasons considers it expedient to do.

E. In all cases of deaths under custody of police and encounter deaths.

2. In all the above cases, it is also necessary that the body is sent for post mortem. The inquiry by the magistrate in the cases A, B, and F mentioned above shall be either instead of or in addition to the investigation held by the police officer.

3. The following hospitals are authorized by the government to conduct post mortem examinations by the qualified medical officers.

A. All hospitals in the Districts and Cities, which are under the control of A.P. Vaidhya Vidhana Parishad.

B. All teaching hospitals under the control of the Director of Medical Education and N.T.R. University of Health Services

C. Authorized civil hospitals under the Directorate of Health.

4. Ayurvedic, Unani and Homeopathy doctors are not authorized to conduct post mortem examinations.

5. Medical Officer working in primary health centres and Municipal dispensaries also can issue wound certificates. Ayurvedic licentiate in Indian medicines cannot issue wound certificate.

6. Judicial Magistrate powers in Custodial deaths/rape etc.

In the event of any custodial death or custodial rape or any person dies or disappears from the Police custody, in addition to Police investigation, the Judicial Magistrate u/s 176 Cr.PC will conduct parallel inquiry including recording of evidence of witnesses. The Judicial officer may also cause exhumation of the dead body and allow the witnesses of the deceased to be at the inquiry. P.M.E. to be conducted within 24 hours.

(Refer PSO 500 for 16 points Supreme Court guidelines)

Disinterment of Bodies (Exhumation) :

495-1. Whenever, an SHO making an investigation reasonably suspects that the body of the person is buried under questionable circumstances, he shall record his reasons in writing and forward the information with a requisition under section 176(3) Cr.PC. to the nearest executive magistrate to present at the time of disinterment. In the mean time he should make arrangement to guard the grave.

2. When the body is disinterred, the SHO or the IO shall establish the identity of the body through witnesses.

3. If there is a possibility of the body being decomposed and unfit for removal for post mortem and in anticipation of such circumstances, the presence of a doctor can also be secured along with the magistrate even before exhumation and the doctor may be requested to conduct post mortem there on the spot.

Inquest reports – Post mortem – Salient points

496-1. In all cases inquests held by magistrates, the executive magistrate will prepare statements of witnesses and enquiry report. This becomes a part of the record in a trial. In such cases there will be two sets of statements from the witnesses, one by the magistrate and another by the police during the course of investigation. Since both the statements will be supplied to the accused any discrepancy in the version will go to the benefit of the accused.

2. Post mortem examination is a necessity in cases where it is felt necessary, as the medical opinion is important in ascertaining the cause of the death.

3. When the body is sent for post mortem examination a police officer must be deputed to accompany the dead body for the purpose of identification of the body and must necessarily be cited as a link witness.

4. In cases of advanced putrefaction/decomposition of the body and where the movement of the corpse may make it impossible for the medical officer to form a correct opinion as to the nature of injuries or cause of the death, the medical officer may be requested to conduct his examination at or near the scene.

5. When the body is sent for post mortem all available information relating to the body must be given to the medical officer. It is desirable that a copy of the inquest report be sent for his guidance. Necessary forms will be 74 A & 74 B.

Preservation of corpse:

497-1. All fresh bodies should be preserved in cold storage.

2. If such facility is not available they should be kept on ice blocks.

3. In the absence of the above, it should be placed up on a layer of powdered charcoal from which it is separated by a cloth. A cloth with another layer of charcoal should then cover it. The whole body being covered by another cloth and a mat.

4. After the post mortem examination, unless there are orders to the contrary, the police shall hand over the body to the relatives or friends of the deceased. In their absence they shall arrange for the disposal of dead body as in Order No. 311.

498-1. Important Rules of A.P. Medical Code relating to Postmortem examination and wound certificate should be followed.

Postmortem examination should be conducted expeditiously on the same day the body is received irrespective of that day being a holiday. If it is received late in the evening external appearances and wounds should be noted immediately with the help of bright lamp and the subsequent examination done early next morning.

2. In addition to granting post-mortem and wound certificates the medical officer should answer any questionnaire issued by the police officer to clarify any doubts. The opinion on the questionnaire must be furnished in writing.

Unidentified bodies:

499. If a body is unidentified the IO shall take the following steps:

1. Take photographs (after clearing up the face, hair for identification of face, hair of face/total body), lateral and length wise) of the deceased through which body can be identified.
2. If face is smudged due to bloodstains etc., one photograph be taken as such and another photograph after cleaning the face, for identification purpose.
3. Find out whether the dead body is of a Hindu or a Muslim
4. Search for identification marks, tattoo marks, tailor marks and any physical deformity or any physical peculiarities.
5. Search for tyre marks or other incriminating evidence in and around the dead body to ascertain whether the body was brought from outside and thrown at the scene or otherwise.
6. Inform the local press to publish photo and also the local cable T.V. network to broadcast the news.
7. Send photographs and descriptive particulars to all SHOs of bordering P.Ss and those P.Ss where there is reason to identify the body. The same should also be published in the district crime and occurrence sheet and in criminal intelligence gazette.
8. Send a detailed message to all the Circle Inspectors of the District, besides sending a copy of message to bordering CIs / SDPOs and SsP concerned to inform whether any men / women missing cases were reported prior to noticing the dead body.
9. Take fingerprints as per the procedure detailed in Order 785 of Chapter 41 of this Manual. If the body is putrefied, address letter to Medical Officer to preserve all the 10 phalanges so that FPs could be taken.
10. Send Finger Prints to the concerned District Finger Print Bureau and State Finger Print Bureau to locate the person if he / she is having any criminal record.
11. Depute a PC / HC with photograph and details to the neighbouring districts to meet the concerned Inspectors of DCRB to find out the identity of the deceased.
12. The District Control Room should inform all the SHOs for a report, if any, of the missing persons, so that the identity can be crosschecked. If the dead body bears ante-mortem injuries, register a case under Sec. 302 IPC immediately and take up necessary action.

13. In cases of suspected homicides it is advisable to collect blood samples on a clean white cloth or a white paper, dried under shade for the purpose of future D.N.A. finger printing tests.

14. Collect the body fluids and other material objects in accordance with the guidelines contained in Chapter 31 of this Manual.

500. Death in Encounters or in Police Custody :

Supreme Court's Sixteen Guidelines:

16 Principles enunciated by Supreme Court in the investigation of cases of death in Exchange of Fire (Crl. Appeal No.1255 of 1999) in *People's Union for Civil Liberties Vs. State of Maharastra dated 23-9-2014.*

1. Receipt of intelligence regarding Criminal movements/activities to be mentioned in Case diary part-I without revealing details.

2. In the event of occurrence of death following exchange of fire, FIR should be registered and grave Crime FIR to be sent to Court without delay.

3. Investigation should be taken by CID or Police team of another Police station under the supervision of a Senior Officer. The team should secure the following evidence quickly.

a) Identify the victim, take a color photograph.

b) To recover and preserve material objects including blood stained earth, hair, fibers and threads etc.

c) To record the statements of witnesses at the scene of crime.

d) To determine the cause, manner and location (drawing rough sketch of scene of crime) and time of death.

e) To take Finger prints of the deceased and send to FPB for verification.

f) PME to be conducted by a team of doctors (one of them to be senior at the district Hospital, video graphed and preserved.

g) To collect weapons, cartridges, (live/ empty) projectiles etc., and test for gunshot residue on the hands/clothes of the deceased.

h) To find out cause of death whether it was natural/accidental/suicidal/ homicidal.

4. In accordance with the section 176 Cr.PC , a Magisterial enquiry must be held in all cases of death and a report sent to Judicial Magistrate having jurisdiction u/s 190 Cr.PC.(Cognizance of offences by Magistrate)

5. The involvement of NHRC is not necessary unless there is serious doubt about independent and impartial investigation. However, information of the incident, without any delay (within 48 hours) must be sent to NHRC or SHRC as the case may be.

6. The injured criminal/victim should be provided medical aid and his/her statement recorded by the magistrate or medical officer with certificate of fitness.

7. All documentation FIR/C.D/*Panch*anama/Sketch of Scene of offence have to be sent to Court.

8. After completion of investigation final report to be sent to Competent Court u/s 173 Cr.PC. The trial, pursuant to the Charge sheet must be concluded expeditiously.

9. The next of kin of the alleged Criminal/victim must be informed at the earliest in the event of death.

10. DGP have to send half yearly statements to NHRC of all cases where deaths have occurred in Police firing (Using the format).

11. Disciplinary action against an officer must be initiated if the death had occurred by use of Fire arm amounting to an offence under IPC(it means if the officer has used excessive force than required)

12. The dependents (of the victims, who suffered death in police encounter) are to be compensated as per Sec.357-A Cr. PC.

13. The Police officer must surrender his/her weapon for forensic ballistic analysis and any other material as required by the Investigating officer.

14. Police officer's family should be informed of the incident and family should be provided a lawyer/counseling.

15. Officers should not be given out of turn promotion or instant gallantry rewards soon after the occurrence. Only after gallantry of the concerned officer is established beyond doubt such award is to be given.

16. In case family of the victim finds the above procedure has not been followed or the investigation is not impartial, they can make a complaint to the Sessions Judge for redressal of the grievances.

The Law Enforcement Authorities have to adhere to the above guidelines while investigating and finalising the cases of exchange of fire.

500-1. In all deaths in police custody and encounters, FIR shall be registered and immediate report made to the concerned executive magistrate who shall hold inquest. The executive magistrate shall hold an inquiry

and submit his report. Publicity must be given to facilitate the relatives to be present and give evidence during inquiry. The NHRC guidelines regarding investigation of cases of deaths in encounter are in Order 546-6 of Chapter 30 of this Manual.

Death in Jails :

2. In all cases of death in jails/Prisons the inquest and inquiry (u/s 176 Cr.PC) should be made by a magistrate in terms of Jail manual. The concerned jurisdictional S.I. of Police will be the Investigating officer. He, on completion of investigation, will submit the final report to the Sub-divisional Magistrate through the SDPO/ACP in case the death is natural and there is no suspicion. SP/DCP should also include this category in the half yearly reports to the NHRC.

Compensation cases – Supply of documents by police:

501-1. In all cases of accidents compensation is paid to victims resulting in death or injuries due to natural calamities, accidents by Air, Railways and roads and also due to violence in caste, communal and terrorist incidents. Apart from insurance companies various authorities also pay compensation. To facilitate such victims and the legal heirs of the deceased to claim relief from the authorities or tribunals in time, the police must furnish free of cost, the following documents to the victims as well as to the authorities of claims Tribunal having jurisdiction and insurance companies within 30 days without their requisition as required under section 158 (6) of M.V. Act.

A. Attested copies of FIR, inquest reports, postmortem and wound certificates and the statements of witnesses if any.

B. In motor accident cases the report of the Motor Vehicle inspector relating to the damage of the Vehicle, copies of Certificates of Insurance, Certificate of Registration, Driving Licence and Fitness Certificate.

C. Charge sheets or final reports.

2. The above documents may be furnished free of cost to the voluntary agencies, legal aid committees and legal service authorities also if they take up the cause of the victims.

Points for enquiry in death cases :

502. The following important points must be observed during inquests:

1. In cases of suspected poisoning

A. Collection of food remains, vomiting

B. Ascertain exact time of taking food

2. In cases of hanging or strangulation

   A. Before cutting or removing, note the strangulating medium, lividity of face, lips and eyelids, state of the tongue whether enlarged or protruded, flow of any fluid from the mouth or nostrils.

   B. Note the state of the neck, whether there are any marks, state of the thumbs whether crossed over the palm.

3. **Body in a tank or well**.

   A. Note for marks of blood around the mouth or sides of the well or tank

   B. State of the skin whether smooth or rough and any external marks of injury

   C. Note the condition of the hands and feet. Sand or weeds under nails if any should be removed and preserved.

   D. Details of clothing and the manner of wearing

4. **Body found murdered in open**.

   A. Note the location, character and number of injuries

   B. If weapon is found pack and seal it carefully without disturbing the prints if any

   C. In the case of exposed infant, note the state of umbilical cord and any marks of violence. Examine the skull for any fracture

   D. If the sex is not definite seize and collect the Jaw and the bones of the Pelvis and samples of skin.

   E. If the body is burnt, collect the pieces of bones and ashes

5. **Death due to firearms and explosives** :

   A. Exact shape, location and number of entry and exit wounds

   B. Marks of burns of hair or skin around the wounds

   C. Recovery of pellets, spent cartridges or any firearms from the scene

   D. Remains of explosive devices

   E. Show in the sketch the damage caused by firing or explosion in the scene

6. **Deaths in motor accidents**:

   A. Tyre marks and skid marks

   B. The description of all injuries

   C. The portion of the road where the body is found

   D. Any of the fibres or clothes of the deceased sticking to the vehicle

Important points to be borne in mind about inquest:

503-1. Inquest must be held immediately after inspection of the scene

2. Independent witnesses of the locality must act as *panch*ayatdars and they must be present all through the inspection of the IO.

3. Inquest must be drawn at the scene.

4. When different parts of the body are found at different places separate inquests must be drawn, steps should be initiated to establish the identity of the body. If the identity is not known a colour photograph and colour videograph should be taken in an undisturbed position. Then different photographs should be taken in different angles. Finger impression should also be taken. When several bodies are there, number of police officers may be engaged to hold inquest on different bodies. Body and the wounds should be described methodically and systematically from head to foot.

5. The description of clothes found on the body and the exact place of blood or stains found should be noted.

6. If any article is seized packing and sealing shall be done on the spot.

7. Every detail touching the apparent cause of the death shall be recorded.

8. Exact measurements must be given and vague expressions should be avoided.

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CHAPTER - 30

Investigation of Specific Offences

Broken - Window theory :

" The theory says that if one person sees the other breaking the law and not being penalised for it, there is a tendency that the law-abiding Citizen also to become a law-breaking citizen".

Therefore, the Police Department should bring every law breaker to justice.

504-1 The Distinction between Investigation, Inquiry and Trials is provided here under for ready reference.

Investigation	Inquiry	Trial
1st Stage	2nd stage	3rd Stage
It is conducted by a Police officer or an authorized person (other than Magistrate)	It is conducted by Court or Magistrate	It is conducted by Court or Magistrate
Section 2(h) of Cr.PC defines Investigation	Section 2(g) of Cr.PC defines Inquiry	Trial is not defined under Cr.PC.
The purpose of conducting investigation is to collect evidence for inquiry and trial	The purpose of inquiry is judicial determination other than guilt or innocence	The purpose of Trial is judicial determination of any question relating to guilt or innocence.
It is a non - judicial proceeding	It is a judicial or non-judicial proceeding	It is a judicial proceeding
It ends with Police Report / Charge sheet	It ends with Charge / Discharge	It ends with conviction / acquittal.

(A) Robbery / Dacoity

Legal Provisions :

504-2 Robbery is an aggravated form of theft or extortion, accompanied by violence or fear of instant hurt or wrongful restraint. Robbery, if committed by five or more persons is dacoity. Sections 390 and 391 of IPC give definition and ingredients of robbery and dacoity respectively. According to the definition,

A. Theft is "robbery", if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or instant hurt or instant wrongful restraint.

B. Extortion is "robbery", if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, instant hurt or instant wrongful restraint to that person or some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

C. When five or more persons conjointly commit or attempt to commit a robbery and persons present and aiding such commission or attempt number five or more, every person so committing, attempting or aiding, is said to commit "dacoity".

Classification and Modus Operandi

505-1. On the basis of place of commission of the offence

(a) fields,

(b) houses,

(c) highways, and

(d) running trains.

2. From the point of view of offenders they can be classified as

(a) Isolated;

(b) Organized;

(c) Inter-District gang;

(d) Inter-State gang;

(e) Armed hold up.

3. **On the basis of weapons used**

(a) Fire arms,

(b) Explosives,

(c) Sharp edged weapons like knives, spears and swords.

(d) Blunt weapons like rods, sticks,

(e) Missiles like stones,

(f) Hands and feet.

4. It should be noted that in nearly all such cases, criminals are armed and, when victims protest or resist, violence is used, sometimes to the extent of causing death or serious injuries. Individuals or organized groups resort to use of firearms, explosives or other lethal weapons. Arms Act/ Explosive substance Act sections have to be incorporated.

5. The description of the modus operandi or technique used by the robbers or dacoits or particularly those gangs addicted to these crimes is best expressed by concentrating on the major items such as (a) Description; (b) scene of offence; (c) mode of transport used; (d) accompanied by other crimes such as molestation, rape, murder; (e) weapons used such as fire arms either rods or fake knives, swords, sticks, lathies, clubs, stones, hand fists and feet; (f) associates and accomplices.

6. Robberies without use of arms by single person or two are quite few and far between. Victims some times over power the offenders in such cases by using their hands and feet resulting in injuries. Snatching is also common. Operations by two or more groups are common who do a quick job often causing serious injuries. Such cases occur in darkness and by surprise. The victims are sometimes drunken persons or women in isolated places who are suddenly attacked. These factors make identification difficult. Therefore, accurate and minute details should be ascertained from the victims by patient and thorough examination.

7. The targets of armed robberies and dacoities are persons, shops, wayside petrol and diesel filling stations, stores, banks, residences etc. The classification depends on factors narrated in this and preceding order. Isolated places like houses in far-flunged suburbs, vehicles or highways, passenger trains in the night and persons returning lonely from banks and shops are usually chosen by the criminals.

8. AP Police Intranet has a vast data bank of offenders across the State who were arrested previously with all crime details. The Investigating Officer has to scan through.

Action on receipt of Information

506-1. The SHO shall take action initially to guard the scene, apprehend offenders and prevent more such offences in or around.

2. When an oral complaint of robbery or dacoity is made at the Police station, the Officer-in-charge while recording the complaint, should incorporate in detail the place of occurrence; number and names of offenders if known to victims, if not known, descriptive particulars, apparel put on, language spoken with accent; properties stolen (descriptive particulars), witnesses, arms used, injuries caused and other relevant details useful for further investigation. If a written

complaint is given with incomplete details the case should be registered on that complaint and the details should be ascertained by examining him and/or other witnesses as early as possible. After registering FIR express reports should be sent to the magistrate and other officers. He should inform CLUES team, the Finger Print Expert and Dog Squad.

Action after Information or Complaint

3. The SHO should rush to the spot with required strength and take steps to preserve the scene, and initiate action along with experts attached, inspect it and take action to process the scene of occurrence. If, during the observation of scene of crime, physical evidence such as finger prints, foot prints, blood and other stains, spent cartridges, bullets, fibers or any other materials and any articles are found left by the offenders, they should be collected and forwarded in the manner prescribed to concerned experts forthwith for their opinion. The opinion, apart from its evidentiary value, will provide useful clues in locating the offenders. The services of sniffer dogs should be utilised and till their arrival, the scene of crime and articles left by offenders should be protected. If accused are seen, Photo albums/ Intranet photos of MO Criminals may be shown to the victim/complainant for identification.

Action by Neighbouring Police Stations

4. On receiving information of the occurrence, police officers of the neighboring stations will take immediate steps to check known criminals of similar modus operandi in their area, interrogate suspicious strangers in their respective jurisdictions, maintain watch on roads, bus stands, railway stations, public resorts, lodges, Bars and all hiding places. Any useful information obtained should be promptly communicated to the investigating officer. Similarly, if information about the occurrence of dacoity or robbery on the trains is received from the Railway Police, the officers of the district or city Police should take action to watch for, and apprehend the culprits and recover stolen properties.

5. It is observed in cases of house dacoities that even if inmates surrender without resistance, the criminals, in order to create panic and fear amongst inmates and others, resort to assault and misbehave with them. They may spend sufficient time at the place of offence and resort to peculiar acts like eating food available, cooking and then eating food, easing at the scene or even sexual assault against the women folk.

6. When the IO visits the scene, he should take up the following measures besides the equipment for processing the scene of crime.

   i. The Crime Staff who are good at detection should be taken along with him.

   ii. Complete photo album of criminal gangs available with the DCRB/ CCRB.

   iii. The videocassettes of the criminals' typical peculiarities. The photo albums and cassettes should be shown to the inmates, neighbours extensively to enable them to identify the criminals by face or by their style of standing, gestures, gait, etc.

   iv. He should show the intranet photographs to the complainant/ Victim

7. In addition to the thorough search of the place of offence, the surroundings of the scene at least to a distance of 3-4 km should be combed for search of left over materials, hidden booty etc. with the help of the sniffer dog squad.

Identification of Persons and Property:

Sec.54-A Cr.PC: Identification of person arrested.

S.H.O.,should refer Rule 34(Identification parades), Rule 35 (Identification of property) of Criminal Rules of Practice & Circular Order, 1990 of A.P. High Court.

507-1. The Investigating Officer should question the victims of the robbery about the identity of the criminal. All the people of the neighbourhood should also be questioned. It should be ascertained from the victims whether they used any force and caused any injuries.

2. If it is established that the criminals are not locals, the IO should go through recent Jail Release of the offenders, search bus stations, railway stations including platforms and yards, ferries, hotels, lodges, choultries, abandoned temples, and the surrounding areas inclusive of all hiding places. The neighbouring Station House Officers should be requested by the quickest means possible to make similar searches for the criminals in their station limits. The available details of crime and description of offenders should be furnished to all those who are requested to conduct searches on their behalf. Enquiries also should be made at bus stations about the movement of strangers. The District Control Room should be asked to monitor the searches.

3. Persons on whom there is reasonable basis for suspicion should be questioned, and if the involvement of any such person is confirmed, he can be arrested and further enquiries relating to him pursued without delay.

4. Information of the occurrence along with description of accused or photographs if available should also be circulated to all Village Administrative Officers of the surrounding villages with the details of stolen property.

5. The enquiries to apprehend the criminals and recover the property lost should be well directed and carried out continuously till the objective is accomplished.

6. Information, with details and descriptive particulars of the property lost, should also be sent immediately to the police of nearby towns where the property is likely to be disposed of.

7. A list of stolen properties should be circulated to bullion merchants and other shop owners dealing with old articles. Enquiries should be made about known receivers and watch kept on them.

8. The informants should be activated.

9. If photographs of criminals are available either in the AP Police intranet or Police stations or in the DCRB, they should be shown to the victims to identify the possible suspects. Identification of offenders by means of photographs shall not prevent Police Officers from getting a Test Identification parade conducted by a Magistrate u/s 54 A Cr.PC.

10. Movements of strangers around the scene of crime in the immediate past before the commission of offence should be probed to verify the movement of dacoits and their proxies.

11. Strangers/new tenants or owners of houses in the locality should be examined. It is seen that organized criminal gangs take houses on rent and on that pretext survey the area during day time and commit offences in the night.

12. The Jail release data coupled with existing AP Police Intranet Data, MO approach to tracing of criminals is very useful, and those criminal gangs involved in this form of crime should be located and checked.

13. Information should be passed on to all police officers and neighbouring police stations and to the DCRB. The DCRB should analyse the information and should provide specific lead to the IO.

14. If the criminals are unknown, the IO should take the help of SHOs of neighboring Police Stations to find out whether such offences of similar MO are reported and as a combined team they must detect the case.

15. Audio-Video recording of statements of victims u/s 161 (3) Cr. PC be recorded while examining and submitted to court with the ghastly scene of crime photos.

Action on arrest

508-1. After arrest of offenders, efforts must be made to recover the property through their confessional statement as well as from the search of places. Thorough interrogation should be under taken to find out their involvement in the past offences and in the present ones. Information about associates, whereabouts of other absconding accused, and also information about the receivers of stolen property etc., should be secured. Wherever, necessary, police remand must be obtained to interrogate elaborately to elicit more such details.

2. The properties seized should be identified by the owners through panch witnesses.

3. If the names of the accused are not known, the IO must arrange for an identification parade of the suspects (accused) for identification by the witnesses through a magistrate

Preventive Measures

The SsP/DCsP /SsRP should short-list most violent / violent property offenders addicted to robberies and circulate such list to all the Police Stations/Circle /Sub-divisions with specific time-bound plan of action.

From time to time the e-COPS PCs and PS Staff should upload all property offenders as and when arrests are made, with previous record of offences.

A weekly special drive should be launched to track and arrest wanted offenders .

509-1. As a preventive measure, in case of information of a criminal group operating or serious outbreak of crimes of this nature, suitable armed patrols should be detailed, taking into consideration the areas in which such offences have occurred. The beat constables may be suitably armed and armed patrols by beat officers along with the SI organized to prevent robbery or dacoity.

2. The highways should be patrolled both by the Highway (duly armed) Police and Beat Constables. The beat officers should take the lead and be present in the beat area and organise voluntary effort and also perform night patrol duty. In vulnerable routes, escort of convoy of vehicles, buses or lorries should be organised in co-ordination with neighboring police stations.

3. The Highway patrol's having jurisdiction have to be briefed and kept fully in the picture. It is advisable to provide mobile radio sets to such patrolling parties. To nab offenders travelling by buses as passengers and committing dacoities at isolated places, watch should be maintained

at important bus stations to locate suspicious characters and their belongings may be searched. In no circumstances genuine passengers should be put to any inconvenience, but they should be requested to cooperate. For prevention of dacoities or robberies and for apprehension of the offenders, the officers engaged in this duty should be thoroughly briefed of the provisions of right of private defence enumerated in Sections 96 to 103 of IPC and provision of Sec. 46 Cr. P.C.

4. The night patrols should be effectively supervised in the field by SDPOs and Addl. SP/SP.

5. Bus drivers, cart men and others should be advised to defend themselves with the use of necessary force and not to submit meekly when attacked or robbed. They should exercise their right of private defence. Whenever, the need arises proper briefing, education and publicity be given to ensure awareness and alertness in the people.

6. Each beat patrol should concentrate on a specific affected area within its beat and arrange to take position at given places and times at intervals with reference to possible lurking points. The beat in charge and the Constable should have a plan of patrolling prepared by them in advance for each type of problem or the area.

7. The help of local residents, voluntary agencies, maitree committees neighbourhood watch committees and village officers must also be obtained for continuous patrols during night. Use of alarm systems may also be encouraged.

8. To prevent train robberies and dacoities, armed escorts should be sent in trains by night with clear instructions and briefing as to the nature of work to be done while escorting.

9. In the event of apprehension of attack on women passengers the escort should be directed to travel in the compartment adjacent to the compartment reserved for women. In case women police escorts are provided they may travel in the women's compartment.

10. Surprise check and searches for suspicious robbers/dacoits in the train/ buses should also be organised but without inconvenience to genuine passengers.

Pursuit of other accused and properties.

510-1. Information gathered at the scene including the clues obtained there from, the details given by the arrested accused if any in the course of his interrogation, the exact description of the properties stolen and the information gathered from sources as well as criminal records should be made the basis for a plan of action to trace the remaining

accused and properties. After the plan is drawn up, the supervisory officer at the level of SP should organise a well-directed drive for their arrest and recovery of properties. The receivers of stolen properties should be marked as accused u/s 411 IPC. Communication with other police organizations inside and outside the State, deputation of staff to make enquiries at places about which clues are available should be the method of tracing the accused.

2. Known receivers of stolen property should be kept under surveillance and on information searches may be conducted.

3. The tower location of the cell phones of accused at the time of commission of the offence should be collected as per section 65 B Evidence Act from service provider.

Charge sheet and Court Trial :

511-1. The charge sheet should describe the part played by each accused, and the overt acts made by each one of them, the weapons which each carried, the recoveries of the stolen properties, the evidence available against each accused and the various sections of law for which each accused is liable for the offences committed. The evidence of identification of the accused and the place of arrest of each accused should be mentioned in the charge sheet. As Dy. Directors of the prosecution Dept., are appointed as Legal Advisors vide G.O. Ms. No. 125, Law (LA&J) Home Courts A2) Dept., dated; 24.09.2013, the SsP/SsRP/ DCsP should get the charge-sheets duly vetted, and lacunae, if any, should be attended to. The previous criminal record of the offenders should be mentioned both in remand report and charge sheet to enable the court to appreciate the dimensions of the case. Baits should be duly countered vigorously. Scene of crime photographs / video clips have to be enclosed as material evidence to the Court.

2. During the course of the trial, the witnesses should be produced promptly and the trial personally monitored by the IO and his superiors. The prosecutor should be briefed for every adjournment and the case tried on a regular basis as far as possible without any lapse on the part of Police.

3. The IO should ensure that all entries in the connected records are made as and when the information is available so that the records are built up along with the investigation and progress of trial.

512 : (B) House Breaking or Burglary

Standard Operating Procedure on House Breaking

IPC Sections			
450	House-trespass in order to commit offence punishable with imprisonment for life	Cognizable	Non-bailable
451	House-trespass in order to commit offence punishable with imprisonment	Cognizable	Bailable
452	House-trespass after preparation for hurt, assault or wrongful restraint	Cognizable	Non-bailable
453	Punishment for lurking house-trespass or house-breaking	Cognizable	Non-bailable
454	Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment	Cognizable	Non-bailable
455	Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.	Cognizable	Non-bailable
456	Punishment for lurking house-trespass or house-breaking by night	Cognizable	Non-bailable
457	Lurking house-trespass or house-breaking	Cognizable	Non-bailable
458	Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint	Cognizable	Non-bailable
459	Grievous hurt caused whilst committing house-trespass or house-breaking	Cognizable	Non-bailable
460	All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them	Cognizable	Non-bailable

a) On receipt of complaint, SHO shall register a case as per the contents of the complaint covering the above sections of law. Many SHOs are not using appropriate sections though the offence falls under the category of offence.

b) Examine the complainant in detail and record the statement, FIR should contain all 5 Ws + 1 H (When, why, where, who, what + How) with M.O., language spoken/Accent, Entry/Exit.

c) Station Writer should upload Integrated Investigation Form-1 in A.P. Police Intranet.

d) Mention whether the property lost (present value) comes under Grave/ non-grave offence. If it is grave, express FIR should be sent and radio messages are given to all SP / CsP/ SsRP

e) Send Crime Card No.1 and collect information whether such similar MO offences occurred in the neighboring localities or anywhere.

f) Immediately send one team to ensure that scene is not disturbed.

g) Entries in the Crime records of the Police Station should be made.

h) Send requisition for CLUES team, Dog squad and Finger Print experts.

i) Go through the A.P. Police Intranet for M.O. criminals of State wide / District wise offenders under M.O. and peruse the Jail-release list.

j) Study the Station Crime Records, discuss with the Crime team PCs/ HCs/ASI/SI, obtain as much information as possible about the suspects.

k) Plan the line of investigation to be followed and executed i.e. draft POA (Plan of Action) and incorporate in the CD.

l) Proceed to the scene of offence. If required with photographs of the suspected persons and investigation kit.

m) Examine/Search the scene of offence and surroundings thoroughly for Clues/M.O., pertaining to entry, exit, type of breaking locks/bending or removing windows / almairahs etc., and special peculiarities such as eating passing tools etc., to ascertain and identify particular MO criminals/Gangs etc.

n) Prepare Scene of offence panchanama in the presence of mediators, take photographs, video graph before collection/seizure of material objects. If necessary, send them to FSL for examination and report through DSP/ACP or court along with Letter of advice. Enclose scene of crime photographs in the charge sheet.

o) IIF-2 Crime detail form (form 76) is to be filled after visiting Scene of offence by the I.O. and upload it in Intranet.

p) Short list the suspects and form special teams to track/apprehend the suspected/accused persons. Go through recent Jail releases thoroughly.

q) Interrogate the suspected/accused persons and receivers.

r) Finger Prints should be sent on-line to the F.P.B., Director along with inmate's Finger prints for providing clues and exact name of the offender, if detected. On-line transmission/verification is done within 2 hours.

s) In case of theft of Laptop/Cell phone/Digital Cameras, the concerned company should be informed regarding batch no., IMEI No.etc., and Service provider should be requested to furnish details.

t) Check up people camping in the outskirts of the Town, at Railway stations, Bus stations and watch the movement of Nomadic tribes.

u) Data of known criminals from settlements like: Stuartpuram, Seethanagaram (Mangalagiri), Garugupalem (Chebrolu PS) of Guntur district, Bitragunta of Nellore district, Tuggili and Maddicare of Kurnool district, Dommara Criminals from Siddapuram (Hasanparthy PS) of Warangal district from Alair of Nalgonda district etc., Jammikunta of Karimnagar district etc., has to be collected and kept ready.

v) Record the statement of Dog Handler, if the Dog led to the offender and the case is detected.

w) Check up Professional Receivers of Stolen property.

x) Verify the visits of strangers / suspects nearby the scene of offence at Cinema theatres, Bars, Restaurants, resorts, dabas / toddy shops, Ganja dens etc., if any. If any CCTV footage is available there, it should be verified/observed by detective team / Crime PS staff who can identify such MO criminals, if possible.

512-1. Sections 441 to 459 IPC relate to criminal trespass, lurking house trespass and house breaking by day or by night. It may be noted that house breaking is constituted by six methods of entry and exit described in section 445 IPC. House breaking by night accompanied by theft are the most common conventional crime in the State and all over the country.

2. The manner of entry and exit, the premises attacked and the nature of property stolen will determine the modus operandi in these cases.

3. The investigating officer should ascertain from the complainant (a) the time of occurrence and marks of identification, if noticed (b) the method of entry in the premises (c) the nature of the property stolen and details of each item; (d) the number of offenders, their description, and names if known; (e) any marks or signs left at the scene.

4. In case the person who makes the complaint is not in a position to furnish the correct details, the IO should ascertain the same from other witnesses at the earliest opportunity. Entries in the crime records of the PS should be made.

5. **The IO should, before proceeding to the scene take the following steps**:

A. Quickly, go through the A.P. Police Intranet MO criminal list for State wide/ District wide offenders under the particular M.O. Study the Station Crime Records including the crime chart, obtain as much information as possible with a view to ascertain the criminals likely to have committed the offence or clues about the suspects and to plan the line of investigation.

B. Alert the patrol team or depute any experienced personnel to apprehend the criminals if known or to obtain clues. Conduct search at Railway stations and Bus stops. Check the Jail released criminals and those who are on Bail.

C. Mark the scene on the map, and with its aid study the past crimes in that area and also crimes of the same modus operandi within the jurisdiction of the station and neighbouring stations.

D. Fill up the information in crime cards and immediately communicate on wireless, telephone to all those to whom the cards are meant, and thereafter arrange to despatch them promptly with request to check and make enquiries about the suspected criminals in a time frame and intimate to him.

6. The inspection of the scene should be carried out thoroughly and diligently. Fingerprints and foot prints are most vital and all the efforts should be directed to ensure their identification, lifting and comparison at a fast pace.

7. Accurate list of all properties stolen with detailed description of each item, identifiable features, numbered properties if any, should be prepared after a thorough examination of victims if the same was not possible at the stage of FIR. The Case Diary Part I should contain this list at the earliest point of time i.e., the very first day. All evidence at the scene including traces, marks or stains should be collected.

513-1. The following are some of the points to be noted while investigating a case of burglary.

A. Special circumstances, if any, concerning the time and date of occurrence (i.e., fair, festival, or any special occasion or function at house).

B. nature of locality, i.e., dwelling house, office, temple, shop, hospital or school and its relation to the rest of the village or town;

C. class of property removed; and

D. place of entry and exit

E. the particulars of the rooms entered by the accused and whether or not the rooms were occupied at the time;

F. any clue left to indicate whether the accused worked in the dark or by means of a light;

G. any clue, or fact which may indicate that the accused had prior knowledge of or familiarity with the premises.

H. the services of sniffer dogs should be utilized to trace any belongings, marks, traces, materials of the accused left by him at the scene and if there are any such, should be preserved for scientific analysis later.

I. any boxes, safes, almirahs or receptacle containing valuables overlooked by the accused and, if so, their location;

J. precautions, if any, adopted by the accused during the commission of the offence, such as chaining or locking of doors;

K. the time or date when the property removed was last seen at the place from which it was stolen;

L. the exact position of finger prints, and steps taken for their preservation. The finger prints should be lifted and immediately sent to district Finger Print Bureau and State FPB after eliminating the finger prints of inmates and Policemen who first visited the scene with the help of FP expert to compare the chance prints with those on record. The Scientific Team should lift FPs, and photograph them. Chance prints should be sent after quick comparison locally to the State FPB through District FPB. The services of a finger print expert in Sub-Divisions should be utilised for processing at the scene of crime. If further help is required the District FPB or other FP experts can be called. This should be done only under orders of SP or DCP Crimes;

M. it should be observed from the scene of the crime as to the number of foot prints found leading to and from the spot or on the spot, and deductions drawn there from as to the number of culprits involved, direction from which the accused came and left, and place, if any, where they waited before committing the offence and steps taken to preserve the prints and take their traces or casts.

N. means of transport, if any, employed by the accused for the removal of stolen property; and

O. any other clues or matters of importance requiring attention.

2.A. In shop and godown burglaries entry is made by (1) lock breaking; (2) by bending the shutter using a jack (normally carried in light motor vehicles) placed in the centre; (3) by bending the shutter by applying manual pressure by two individuals.

B. Some of the illustrative examples are stated herein. In the second and third methods as mentioned above a young or a lean person is made to enter the shop in the gap created at the bent portion of the shutter. It is observed that the shutter bending methods are generally adopted by professional criminal gangs from other States though certain gangs within the State are also operating in a similar fashion. They visit towns, spot out jewellery shops, or shops with valuables, watch the shop study the shutter properties and plan their operations. The offenders having entered the shop, force open the Iron Safes or steel cabinets by boring holes with electric or mechanical drill machine. This method is also used to open strong room doors in banks by criminals. Local criminals are also adapting shutter bending method. In these offences the police should not lose any time in inspecting the scene and make an aggressive drive on the basis of clues to apprehend the criminals.

3. Laboratories and engineering workshops having high walls are accessed through ventilators or by removing the zinc or asbestos sheets of the roof. By means of rope or rope made ladder the culprits climb down and precious engineering instruments are stolen. The roof sheets are replaced to give an impression that no offence occurred or the offence has been committed by the employees. A careful study of the scene including roof is required. While making efforts to trace the culprits, in this type of cases, discreet enquiries should be made to know the antecedents of the employees working there.

4. **If access was obtained by any other method than those mentioned above the following point should be noted**:

A. how access was gained;

B. if the entry was gained through windows or ventilators give particulars to indicate how bars were forced or glasses broken and means adopted by the accused for preventing noise.

C. if the offender scaled the wall, (i) state the means employed, e.g., ladder, bamboo, or drain pipe, or rope and (ii) give particulars of marks, if any, left on the wall; or any remnants of the means used

D. if admittance was gained through eaves, give measurements, height from the ground and means employed to ascend;

E. if entry was gained through a threshold hole give the height of the basement, its relation to the door and furnish details as in sub-order (2) above; and

F. in cases of entry by deceit, threat or force, give details as ascertained during investigation.

5. In the case of house-breakings by day, the following points should also be noted:

A. state the whereabouts of the occupants at the time the offence was committed; and

B. precautions, if any, taken by the accused or his associates to avoid or divert the attention of neighbours away from the house attacked.

514-1. Investigation - Instructions for investigating officers.

The investigating officer must -

A. acquaint with the method followed by burglars for forcing, or attempting to force, entry into the house attacked;

B. draw a rough plan of the house burgled with its surroundings;

C. make or arrange to make a close search for foot prints or finger prints or other clues with help of experts attached which may eventually be of use as evidence against the culprits when captured;

D. enquire regarding recent visitors to the village, or to the house burgled; and

E. compile a complete list of property lost.

2. Should such enquiries lead to promising clues as to the identity of the burglars, the IO should, speedily follow it up immediately and work it out to its logical conclusion.

3. Close study of the scene and questioning the inmates is important. Some criminals take all precautions to leave no traces of offence and the Police Officers are likely to draw wrong conclusions that the offence did not occur and a false complaint was made. Such conclusions should not be drawn in haste unless there are incontrovertible facts in support. A thorough enquiry of every aspect should be done into before reaching such conclusions.

4. There is possibility of false complaints to avoid taxes or claim insurance amounts. The investigations should therefore, be well directed and prompt. These instructions should also be followed while investigating theft cases.

5. Receivers of stolen property are an integral part of criminal activity of professional burglars. A sound information system and thorough enquiries by detective staff about receivers would yield useful clues in the investigation of burglaries.

6. Accurate entries should be made in all crime records and forms by the Investigating Officer.

515. (C) Theft (Sec.378,379,380,381,382 IPC)

Standard Operating Procedure on Theft

Snatching/Diversion of attention:

1) Gold chain snatching from women walking on the roads, lanes, Parks, lonely areas, travelling in Trains (sleeping/sitting near windows) is a serious crime as Women value their Mangala sutra.

2) Hand bags are stolen / snatched in busy areas/lonely/deserted areas.

3) On receipt of information, SHO should make a G.D. entry and immediately alert all the neighbouring Police stations regarding the crime vehicle and physical stature of the accused.

4) Victim should be brought to the Police station, and shown the listed offenders in the A.P. Police Intranet and victim should be asked to provide physical peculiarities of the accused.

5) SHO should record the detailed statement and register FIR and fill up Integrated Investigation Form-1(Form No.82) and upload it in the Intranet.

6) If the case pertains to Snatching of Cash bag, details regarding the persons who diverted attention and language used should be recorded.

7) Normally, diverting attention is done by two/three offenders of whom one of them will skulk away with property.

8) Generally, the Banks/Post Offices/Shopping Malls are the target places.

9) Offenders of Ramjinagar of Tiruchi (TN) and Ojikuppam (Gollakuppam) (Nagiri PS limits) of Chittoor district are quite active who get back with cash to their village in the next available train/Bus. They are called Kapemaris.

10) SHO should verify the Jail Release list and cross-check with those who are absent and track them for questioning.

11) If, victim remembers physical features of the accused, Portrait should be drawn and shown to the victim and on expression of similarities, Crime staff should attempt to identify. Remember good portrait parley 'software' is available in the world-across.

12) Since, Snatchers have no jurisdiction, it is pertinent that the Investigating officer should short list from the Intranet all those who are active in the Commissionerate/range/State.

13) In case of detection, the Investigating officer should get the property identified as per the procedure and the Receiver of Stolen property

should be marked as one of the accused u/s 411 IPC. No mercy to be shown on receivers. In Supply/Demand chain, if demand is reduced, supply (snatching / theft) will reduce.

14) Crime Vehicle should be seized and verified with Missing/Stolen vehicle Data base of Police Intranet of Engine number and Chassis number. If it is a stolen vehicle and if there is no F.I.R.in district/ Commissionerate, another new case has to be registered and the owner should be informed.

15) Efforts should be made to return the property (u/s 451 Cr PC) to the owner through court at the earliest to preclude damage to recovered property (Sunderbhai Ambalal Desai vs State of Gujarat (2002) 10 Sec. 283, AIR 2003 Sc 638)

16) Similarly, recovered gold chain after being identified should be returned to the owner through the court with a condition to produce the same in the court at the time of Trial.

515-1 PSUEDO POLICE (Popularly called Irani gang)

Attention Diversion Gangs

Psuedo Police are Civilian accused who pose themselves as Sub-Inspector of Police(Not in uniform), targeting lonely women in lanes, by-lanes, relieve their Jewellery and skulk away.

The Modus Operandi is that two/three members will be in civil dress posing as local mufti Police with a Motor cycle and ask the women to be careful about the Jewellery and advice her to remove the Jewellery and put it in the Bag/Kerchief with sleight of hand they handle the Jewellery as if they are checking the safety and re-place with stones or some other things. Later when woman opens the bag/kerchief after some distance she finds stones etc., and when she looks back she would not find them.

The main gang(of Irani origin) is in Bhiwandi town of Mumbai (Thane Commissionerate)with nearly 200 members and other sub-gangs hail from Pune (Shivajinagar), Bidar town (I Town PS limits), Gulbarga town(Karnataka State) and Guntakal of Anantapuramu District. They are slim, smart and act as if they are the area Police officers in mufti.

Immediately on receipt of such information, SHO should alert all Mobiles/Blue Colts/Police stations for interception of Motor cycle of such description.

The Victim should be shown the photographs in the Intranet to identify the culprits, as the previously arrested accused are well documented.

Most of them will be of 25 to 40 years of age and immediately return to the areas (Native places) and book the Motor cycle with Parcel

office of nearby Railway stations to their destination and travel back to their native places by train/Bus.

Investigating officer should check up the booked Motor cycle at Railway Parcel office and should check up whether they are from out of city or State and tally with descriptive particulars given by the victim.

Message shall be given to all Superintendents of police / Commissioners of Police with copy to Commissioner of Police, Thane, Supdt. of Police, Bidar, Supdt., of Police, Gulbarga.

Prevention :

Vide publicity should be given by the local police regarding such M.O. of diverting attention and ask the locality people, Community Contact Committee to be proactive in informing and apprehending such persons. No police will ever ask the women to remove their Jewellery.

Digital Photographs should be displayed at Railway stations and Bus stops and sub-controls/Out-posts and at all Police Stations and Police men should be briefed during catechism classes.

At the time of Charge sheeting, previous cases of the gang have to be mentioned and parallely inform the concerned SHO/SsP of such arrest, so that they can take them on Production Warrants (Sec.267 Cr. PC) in their cases.

Bails should be strictly contested by the SHOs and sureties should be verified by the Courts as per Sec.441-A Cr. PC as it is difficult to execute warrants against them since they en-masse assault small posse of Police team in their localities. The difficulty faced by the police in apprehending such accused should be mentioned in Remand CD and in countering bail applications of accused.

515-2. Theft is defined in section 378 IPC. The ordinary thefts are punishable u/s 379 IPC, house thefts u/s 380 IPC and thefts by servants u/s 381 IPC. There is a large variety of thefts and it is the most common conventional crime.

Snatchings :

1. In towns and cities snatchings are very common. Women are the targets in most cases. Gold chains from the women walking along the roads or lanes or parks, cinema houses are snatched by culprits who come one riding cycles, Motor cycles or by walking along and run away after snatching. By the time she realizes, the culprit escapes. Women carry their jewellery in their handbags apprehending snatching. Darkness and deserted areas afford cover to the culprits. If the culprit

finds the woman not wearing jewellery and carrying a bag he snatches the handbag. The jewellery of the women sleeping close to the windows of the house, are snatched. In these offences local criminals can be suspected. Similarly, the jewellery of the women travelling by train and sitting or sleeping near window are snatched when the train starts from a railway station. In these offences local criminals can be suspected. In cases of snatching of jewellery from the neck, the woman might be injured and she should be sent to hospital and injury certificate obtained.

A. The other type of snatching is of cash bags. The culprits observe persons proceeding to banks to deposit or withdraw cash and snatch the cash bags. They also pose as enforcement or Tax Officials and in the name of checking take away the cash bags. When the shop keepers keep their cash bags on the steps while opening or closing their shops the criminals divert their attention in many ways and escape with cash bags. Even if the culprit who diverted attention is caught, he pleads ignorance or by the time he admits that he is a member of criminal gang, the other criminal escapes with stolen cash. In case where a suspect is apprehended, he should be interrogated immediately to trace the absconding criminals.

B. In banks the attention of the employees or the customer is diverted by putting them in conversation or dropping by a currency note as if it is dropped by the customer unnoticed and when the customer attempts to pick it they escape with their cash bags.

C. The most valuable aid to successful investigation, detection and prevention of such offences is the up-dated criminal records system at State, District, City and Station levels. Entries in Station Crime History (Part I) should be made giving - minute details of *modus operandi* and photographs kept on record of those who have earlier come to notice. The DCRB, the SCRB and FPB should have the data on their systems. Since many of the criminals addicted to above offences (except those snatching jewellery from women) move and operate in groups, the gang history should be prepared and maintained in the DCRB for rendering timely advice to the Investigating Officers whenever, required and necessary. All methods that have come to notice should be recorded in these Bureaux by study and analysis of the information.

2. Cases of theft from letters, parcels and insured covers also occur quite frequently. Knowledge of how such offences are committed is essential for their successful investigation. Some of the methods usually employed for opening a letter are given below:

A. The envelope is held in the left hand with its face down. An ordinary knitting needle held in the right hand is inserted gently under the least

gummed portion of one of the flips, and rolled with a gentle pressure moving it simultaneously away or towards the palm of the left hand till the flip is opened out.

B. The envelope with its face down is placed on a clean white sheet of paper on a table. The flips are dampened with a wet piece of linen or clean rag. When the flips have been sufficiently moistened, the envelope is lifted up and held with the left hand and the flips opened out as described in sub order A above.

C. The flip side of the envelope is held against a jet of steam coming out of a steam kettle. As the adhesive under the flips gets moistened the flip begins to curl up and finally gets unfastened.

D. In the case of sealed letters, plaster moulds of the seals are first made and then after removing the seals the cover is opened by either of the methods described above.

E. Ordinarily, valuable clues to the investigation of cases of tampering with letters, inland covers and parcels are destroyed by careless handling first by the receiver, then by the public and finally by an unskilled Police Officer dealing with them. These are a handicap to the expert to whom the article is sent for examination.

Theft of Copper wire :

516-1. Generally, copper wire is used for telegraph and telephone lines. Telegraph wires used in this country are manufactured in three standards viz. 300 lb, 200 lb or 150 lb weight per mile. This specification is exclusively for the telegraph and telephone department and not available locally. Therefore, the mere unlawful possession of this specification is itself an offence under Telegraph wires (Unlawful possession) Act 1950.

2. In these cases the identity of the wire is established from the recovered wire with the wire found missing at the spot.

3. In order to establish the identity, the cut end found on the poles should be sent along with the wire recovered to the laboratory and prosecution launched on the report of the laboratory. Under the above Act the burden of proving the lawful possession is on the accused.

Cycle theft :

517-1. Cycle thefts are prevalent generally during busy hours at Hotels, Cinemas, Post Offices, Banks, Hospitals, and Educational Institutions etc. Mostly they take place when the cycle is unguarded or unlocked. The SHOs shall register a case without any hesitation though value is less. For rural students it is a valuable asset.

2. Another type of crime involving loss of cycle is criminal breach of trust where the offender takes a cycle on hire and absconds.

3. Stolen cycles are generally disposed off after erasing or defacing the identity or after dismantling the parts.

Investigation :

4. When a cycle theft is reported, the complainant may be asked to give the details including the number and make, if possible the bill of purchase for its easy identification when recovered.

5. Suspected dealers and repairers should be kept on watch. A list of cycle lifters with their photograph may be maintained in each police station.

Automobile Thefts :

518-1. Automobile thefts are mostly committed in cities and towns. The methods employed generally are (A) engaging a light motor vehicle on hire, dislodge the driver on some pretext like have his food or tea in a hotel and to drive away; (B) take the hired vehicle to a long distance, kill the driver and commit theft of the vehicle ; (C) theft of light or heavy vehicles when parked on the roads or near the residential houses, or places of work or places of entertainment; (D) theft of two wheelers from shopping or other busy areas or when parked near residential houses or from the compound of the houses; (E) theft of valuable parts from the vehicle and abandon the vehicle at an isolated place; and (F) taking away a vehicle to commit another crime using it to reach the scene or as a get-away vehicle or both: Cases of theft of trucks carrying cargo and disposal of both the truck and goods are also occurring in many parts of the country. This is generally done by professional gangs.

As the AP Police intranet is having on-line connectivity with Transport department, the Investigating officer should verify whether the details are correct. Missing and recovered vehicle data base is also uploaded in Intranet for verification, location and retrival.

2. The offenders usually drive fast to some distance change the number plates to avoid immediate apprehension.

3. The stolen vehicle is taken to a mechanic to erase the Chassis and Engine numbers and to emboss fresh numbers and sometimes to change the colour. A forged registration certificate is prepared with the help of agents or brokers having access to RTA offices and then the vehicles are sold.

4.A) The moment a complaint of loss (the victim does not understand the difference between missing, loss and theft) or theft is made in the Police Station a case of theft should be registered and investigation taken up. Quite often the SHOs are declining to register, except making a General Diary entry. Disciplinary action against such officers should be taken to curtail such attitude. Particulars of vehicle should be

ascertained fast and information communicated immediately by quickest possible means to all Police Stations in the city, town and also to the Police Stations on the Highways. The information should indicate the type of vehicle, its colour, registration number, model, chassis & engine numbers. In cities and towns having exclusive Traffic Police the information should be promptly passed on wireless or telephone to the Traffic Police Stations. The police stations receiving the information should immediately act and depute men to check the vehicles of the type mentioned in the message in their jurisdiction. The beat area Constables and Head Constables should also be given the same information.

B) Many times the stolen vehicles are kept in Railway stations/Bus station parking lots and the accused skulk away. Investigating officers to check such places.

5. Detection largely depends on the promptness with which information is passed on, the speed and alacrity with which the recipients of information on the CCIS (Crime, Criminal Information System) react. As in the case of other property crime, the crime and criminal information system including MO criminals should be kept up to date in AP Police Intranet, in Local Crime Records, District Crime Records Bureau and SCRB to analyze, advise action that facilitates early recovery of the stolen vehicle and the offender.

6. From time to time the vehicle owners should be advised (A) not to leave the original registration books in the vehicle and to keep photocopies; (B) to have extra locks or alarm as available in the market fixed to the vehicle and (C) to use paid parking areas which have a watchman.

7. Since detection of automobile theft is difficult, preventive steps would be of much help. A close study of these thefts is necessary. The type of vehicle, the places from which they are stolen, the interval between each theft have to be considered and watch maintained by plain clothes men of Police at the places where thefts are likely to occur. Watch may be kept on suspected mechanics. The garages known for dismantling stolen vehicles for selling it part by part too may be kept under watch. Informants can be set up to know their activities. A watch on the known M.O. criminals i.e., those already on record should be made. Frequent enquiries should also be made about the agents or brokers attending the R.T.A. offices, who indulge in shady dealings. Suspect sheets should be opened against such persons.

Pocket-picking :

519-1. Of all crimes, pocket picking is the easiest to commit. It involves far less labour and time than any other type of crime. Detection is difficult except where offenders are caught red-handed as the property involved is mostly cash. Pocket picking is generally committed in shandies, fairs, festivals, railway stations, trains, buses and bus stops, banks, post offices, places of entertainment and other places where crowds gather. Pickpocketers may work singly or with associates. They are generally dressed like others who gather or visit the above places to escape suspicion

2. The devices adopted by different pickpockets to divert the attention of their victims vary. In crowded centres, like a bus stop, pickpockets may operate in a bunch. After marking a victim, they close upon him like intending passengers. One of them dashes against the victim and while the latter turns his face towards him another from the gang instantly removes his purse and passes it on to a third, who decamps with the loot. Sometimes, one of them in trying to board a train or a bus causes temporary obstruction to other passengers who are in a desperate hurry to get in and secure a seat, and his associates who are mixed up in the crowd do their job with such dexterity that the victim never suspects their design. The article picked is passed on immediately from one to the other and the last person who receives it disappears from the scene all in a moment. They later meet at predetermined place and share the booty. Some pick pocketers use knives, razor blades, or scissors to cut the pockets.

3. The following are a few among other points to be noted in a case of pocket picking:

A. means employed by the culprit, i.e., scissors, knife, or a razor blade or merely by hand;

B. the type of the garment, and the position of the pocket, e.g., *jubba, kurta, sherwani*, shirt, coat, waistcoat, side, upper or lower inner or outer pocket;

C. position of other pockets and their contents which were not touched;

D. means adopted to divert the victim's attention;

E. reasons, if any, for believing that the culprit operated singly or with associates.

F. In larger towns and cities the pickpockets have their areas and bus routes demarcated. They do not allow criminals of one area to operate in other's area. If a non-local criminal operates they try to locate him. It will be very useful if the Police Officers study the pattern of this type of crime and question the criminals when apprehended on

their and others' activities. The information furnished should be crosschecked and verified. A note should be prepared and kept in Part V of the individual criminals. This would facilitate in examining their complicity in the event of crime.

Thefts on Railways :

4. Thefts on Railways consist of those on running trains, parcel offices, wagons, goods trains, marketing yards, Railway Stores etc. These may be classified into (a) Those relating to passengers property and (b) those relating to Railway property. Snatching, lifting, bags and briefcases from trains and platforms may steal passengers' property. Detailed instructions of these are contained in the Chapter on Railway Police.

(D) Riots and Cases involving Fire Arms

Cr. PC Sections	
129	Dispersal of unlawful assembly by use of civil force
130	Use of armed forces to disperse assembly
131	Power of certain armed force officers to disperse assembly
132.	Protection against prosecution for acts done under preceding section
141	Procedure on order being made absolute and consequences of disobedience
142	Injunction pending inquiry
143	Magistrate may prohibit repetition or continuance of public nuisance
144	Power to issue order in urgent cases of nuisance or apprehended danger
144-A	Power to prohibit carrying arms in procession or mass drill or mass training with arms.
145	Procedure where dispute concerning land or water is likely to cause breach of peace
146	Power to attach subject of dispute and to appoint receiver.
147	Dispute concerning right of use of land or water
148	Local inquiry
149	Police to prevent cognizable offences.(and interpose for preventing such offences) (Which empowers Nakabandi, surveillance, Frisking, opening of History sheets etc.

In the case of *James Martin Vs. State of Kerala* in Criminal Appeal No.887 of 1997, dated 16-12-2003, pertaining to Bharat *Bandh* dated 15-3-1998 regarding right of private defence and role of political parties during *bandhs* and *hartals*, the Supreme Court ordered that:

" Police is directed not to be soft and not to adopt lenient approach for such offenders(Political parties/Bandh activities who resort to destruction of private/public property) and control such acts with iron hands to ensure that innocent citizens do not suffer ".

Preventive action :

SDPOs should mention the conditions imposed by Apex court judgment when Political parties make an application for procession etc., to press for a demand. In the proceedings u/s 30 of Indian Police Act, 1861, the SDPO shall mention the conditions of (i) total responsibility of Political parties in controlling the crowds and their liabilities, (ii) payment of damages, if any, caused during the procession.

Investigation of Riots cases :

520-1. Riots take place due to various reasons. The nature of riots, the causes and the method of dealing with them have been detailed in the Chapter dealing with breach of peace. The investigation of rioting cases has certain special features, which need IO's attention. The guidelines for processing of the scene of offence, identification, collection, seizure, forwarding etc. of clues, objects, stains, materials are contained in Chapter dealing with scientific aids as also in other Chapters on investigation. The general principles and the details of action to be taken meant for other cases equally apply to the cases of rioting. The special features which require attention are indicated below:

2. Section Sec. 129-132 & 141 to 149 Cr.PC deal with rioting. Ordinarily, rioting is followed by bodily offences ranging from hurt to murder. The weapons used may vary from ordinary weapons to fire arms or explosives. The aspects like motive, identity of the accused, overt acts by each of them, the common object of the unlawful assembly, right of private defence, if any, should be investigated impartially.

   Declaring an assembly as "unlawful" is a pre-condition that empowers a Police officer to resort to using force. A General diary entry to be made in this regard. C.D. file should contain the timing of declaring an assembly as "Un-lawful assembly" and force used.

A. **Five or more persons:** Five or more persons assembling with a 'common object' to commit an offence is an unlawful assembly. It is not necessary that the identity of all persons has to be established to bring home the guilt against the others. The important point to prove is that there were 5 or more persons involved at the time of rioting. News paper reports, TV visuals to be collected as Visual evidence.

B. **Identity**: The identity of persons and their presence can be established by oral evidence, test identification parade, video or photographs if any taken, evidence of eye witness, or from material evidence available on the spot or from the injuries sustained by them. The material could be in the form of a weapon left on the scene, spare cartridges, finger prints, foot prints or other materials belonging to the accused. The comparison of the nature of injury on the accused to the circumstances in which he could have sustained it, in the course of the offence can yield valuable corroboration. The proof of the community of the accused and victims, association with any communal organisation or its activities, knowledge of the community of the victim from the latter's dress or language are the points on which evidence has to be gathered. In some cases the accused may know the victim. In such an event evidence of that fact should be gathered. The presence, identity and role of the accused are important facts to be established. Cell tower location of the accused Cell phones of the accused would be a conclusive proof. Investigating officer should obtain the same from Service providers as per Sec.65-B, Evidence Act.

C. **Part played by each**: The part played by each accused, the nature of weapon if any carried by him and evidence of such weapon having been carried by him and the nature of injuries caused to the victims, whether the injury attributed to him could have been caused by the weapon which he is known to have carried at that time are to be brought out in the investigation. News papers, Video clips prove the presence of accused.

D. **Common object**: (U/s 149 IPC) The common object of the unlawful assembly is important ingredient in a rioting case. The mere presence of a member of the unlawful assembly makes him liable for offences committed by others even though he did not take part.

E. **Evidence of motive and the immediate cause of the riot**: Motives like land disputes or factions or previous incidents will help in gathering evidence for immediate cause of the riot. If any one of those persons bound over u/s 107 Cr. PC earlier , mention the same in the Case diary and take action to forfeit the bonds executed by the respondents.

F. **Matrix of Accused and evidence** : The Investigating Officer should prepare a chart in all rioting cases so as to illustrate the name of each accused and the evidence, oral, material and documentary that is available against him including his overt acts and sections of law under which he is liable. A close scrutiny of such a chart from time to time would bring out the adequacy or otherwise of the evidence and contradictions if any. It will facilitate the IO to concentrate on missing links and enable the Prosecutor to present the case properly to the trial judge.

G. ***Alibi :*** The principal accused in factious rioting with murder have a habit of bringing an alibi, either by admitting himself in a hospital or making false/forged record of having been present elsewhere. The alibi should be thoroughly investigated and the details brought out clearly whether the alibi is true or false. If it is true he cannot naturally be prosecuted unless there is evidence of his abetment or conspiracy. If it is false, the case against him becomes stronger. The accused that takes alibi should be thoroughly examined to ascertain the truth of such alibi and also to know the line of defence that he may take in support of his alibi in the Court during trial. (Sec.11 of IEA).

H. **Fire Arms**: In cases where the fire arms are used the procedure laid down in this Chapter and Chapter relating to scientific aids to investigation for the preservation and forwarding of the materials should be scrupulously followed. Best evidence in such cases can be secured if steps detailed herein and Chapter relating to scientific aids is followed.

I. **False implication**: At the time of recording of the FIR the officer generally has no option but to record the information given. The fact that the names figure as accused in the FIR does not mean, that they should all be prosecuted.

J. **Case and Counter**: Generally in rioting cases there is a case and a counter. In such cases the IO faces the problem of determining the aggressor. The oral evidence by both parties will be more or less identical. Genesis of the offence, evidence of independent witnesses, scientific clues available at the scene, the preparation for the offence, the place of offence and the subsequent conduct would provide help in determining the aggressors. Where it is difficult to determine as to who is the aggressor and where evidence shows that there is preparation on both sides, the right course of action is to prosecute both on the basis of free fight.

K. **Collection of Video or Photographs**: In cases of rioting in political, communal, caste or factions, there is every possibility of video graphs, photographs being taken by the media persons or other individuals. In some cases they are even published. Media persons also send telegraphic, fax or telephonic messages as and when a riot is taking place when they are present. Collecting this primary material by the IO from the media persons making them as witnesses, would be useful as a corroborative piece of evidence in the case.

L. Rioting take place in the open and often in daylight and are generally in the presence of public at large and therefore, require factual investigation.

M. Where the riots are part of an organised crime activity, the offenders who plan them manage to stay away. The effort of the IO is to identify such offenders so that a case of conspiracy can be made out against them.

Cases involving Fire Arms :

521-1. The cases of rioting where firearms are used, the IO should have a clear idea of the type of weapons commonly in use in that area. Instructions regarding investigation into fire arm cases and the material to be collected as evidence has been detailed in the chapter relating to scientific aids. Every IO should study and comply with the instructions therein as are applicable in each case. In addition, the following precautions should be taken.

A. The weapon at the scene of crime should never be touched before its exact location has been recorded in detail, in writing, by a sketch, photograph and if possible by video graph.

B. In developing the fingerprints on polished or other surfaces of the weapon, the FP expert attached or a team member who is specially trained in the Investigation alone should handle it. The IO should ensure that all finger prints are lifted.

C. Detailed notes should be made immediately, of the condition of the weapon, such as the position of the safety-catch, the cartridge case and whether a cartridge is found in the weapon or a defective one is sticking up rendering the weapon inoperative. If a loaded cartridge is found, it should be removed carefully and the cartridge so removed should be separately marked with a label tied to the rim for future identification.

D. After the loaded cartridge, if any, has been removed, the name, model number and other particulars of the weapon and any other identifying marks, which may appear on the surface, should be recorded.

E. It is advisable to close the muzzle-end of the weapon immediately on reaching the scene, as it may later be necessary to take barrel washings to ascertain whether powder has been used or not.

F. The IO should look for the presence of wads at and around the scene from where the weapon was fired or was found. Where a shot gun was used in a closed place, a room for instance, he should look for pellets in such places as the cushion of chairs, in the door frames and other places where they are likely to be embedded. In an open place with trees around, they are likely to be found embedded in the trunks. In case a weapon with a single projectile was used, search should be made in the places mentioned above for bullets which might have

come out after hitting the person or which might not have hit him if more than one shot was fired.

Source of procuring the weapon should be ascertained and such illegal source shall be busted.

G. Similar action where no weapon is found on the scene should be adopted. The recovery of any pellet, wad, or such other article may give a definite clue to the type of weapon used. If bullets with rifle marks are found, a clear opinion as to the exact nature of the weapon used is possible from the lands, grooves, twist and pitch of the rifling. The nature of weapon can also be determined if a fired cartridge case is recovered from the scene. If the suspected weapon is subsequently traced, it is possible to know if that particular weapon discharged the bullet. The bullet or the cartridge case should be preserved in a protective roll of cotton or similar soft material and placed in pillbox, each item separately. No additional markings or scratches should be caused on the bullet or cartridge case being sent for opinion. Handling of weapons where the accused pleads accidental discharge requires care. The weapon should be sent after packing it carefully to the expert for his detailed examination. The experts attached to Investigating Units should assist in locating, packing and forwarding the articles to the Ballistics experts and if possible give their views to the IO to enable pursuit of further investigation on right lines.

H. The nature of the weapon used, the distance from the victims from where it is fired, the evidence regarding the person who used it, the cartridges or bullets used, found at the scene, the materials seized from the suspect's premises used by him or where he lived, the places where the cartridges or gun powder or materials are procured or purchased, in case of country made weapons, those who manufactured them, are some of the important aspects in the investigation of such cases. The cases in which firearms are used provide a wealth of material evidence, traces, marks and stains which if noticed by an observant eye and properly used can be invaluable in the detection.

2. While investigating cases involving firearms the Investigating Officers should go through the following check list so that none of the important points for investigation are left out.

A. **Fire Arms:**

(i). Was any weapon found and if so where?

(ii). Is the weapon smooth bore/rifled?

(iii). Whether full description including serial number etc., and location of weapon on a sketch and in notes, photograph of the weapons included in the Letter of Advice (LOA)?

(iv). Was the weapon in loaded condition?

(v). In the case of revolver, whether the sketch of the position of the empty and live cartridges in the cylinder is drawn?

B. **Cartridges and their Components :**

(i) Where any cartridge / cartridge cases recovered from the scene of crime.

(ii) locate them in the sketch; in notes and photograph

(iii) Note the caliber and head stamp markings.

(iv) Where any wads/bullets/pellets recovered in the crime scene?

(v) Where there any affected items by fire arm projectiles (such as furniture, vehicles, walls, etc.)?

(vi) In the case of any casualty, where any wads/bullets/pellets recovered in the body by the medical officer?

C. **Holes on the garments and wounds on the body**.

(i) Powder and/or flame burns on clothing and body, photograph and description

(ii) Tattooing by powder on skin

(iii) Barrel impression on the skin; photograph and description

(iv) Number of fire arm injuries on the body and location of injuries on the body

(v) Collection of GSR on the hands of the deceased in the case of suicide, after photograph is taken.

(vi) Collection of GSR on the hands of the suspect in homicide cases, after photograph is taken.

Common Causes for Accidents with Firearms :

3.A Mismatching of firearm and ammunition

B. Defective ammunition (Excessive loading, over size projectiles, defective powder, etc.)

C. Fire arm may be old and rusted.

D. Improper alignment of cylinder and barrel in revolver.

E. Improper closing of breech end.

F. Defective trigger pull or defective catch.

G. Negligence about the safety devices.

H. Hasty or negligent handling of the weapon.

DO's and Dont's for IOs for forwarding the Material Objects.

DOs

522-1

A. Collect cartridge cases, bullets, pellets, wads, etc., after noting down their positions.

B. Collect un-burnt /partially burnt grains of propellant.

C. If the bullet is lodged in furniture, wall, etc., first remove the material around the place of lodgement carefully so as to loosen the bullet which may then be taken out by hand.

D. Initials of IO may be marked on the inside of the cartridge case.

E. Bullet may be marked on its base.

F. A firearm may be marked on its frame, barrel, etc.

G. In case more than one bullet/cartridge case is recovered they may be packed separately to avoid one scratching the other during transit.

H. The suspected firearm may be first examined for latent fingerprints, then wrapped in waste cloth and kept in a wooden box and forwarded to the lab.

I. The muzzle of the firearm may be closed by capping instead of plugging. The breech should also be wrapped by cloth, paper, etc.

J. Live cartridges similar to that used in crime, if recovered, may also be forwarded for test firing.

K. If burning, blackening, pellet pattern are present on body or clothing, keep a scale near to it and take a photograph (preferably colour) and send it to laboratory for estimating the range of fire.

L. Typed copy of P.M. report/Injury diagram/Injury certificate should be sent for estimating the range of fire.

M. The clothing should not be cut, creased, or folded across the bullet hole. Cover the affected portion with cellophane paper for protection. Use different packings for different clothing.

N. In cases involving shooting through glass:

i. Take scaled photograph of the damaged glassware from both sides.

ii. Try to transport whole glass having bullet hole along with its frame. Care should be taken to avoid further damage.

iii. If powder pattern is present, cover it with cellophane paper.

iv. Note the distribution of glass pieces and collect them. Glass pieces on both sides should be packed separately.

v. Collect clothing of the suspect, which he was wearing during the incident.

O. To identify the shooter, collect

i. Washings of both the hands separately in different glass containers with distilled water.

ii. Swabbing of hands with a cloth piece moistened with 0.1M Hydro Chloric Acid (HCl) / 0.05M Nitric Acid (H_2NO_3).

P. In cases involving revolvers, the position of live cartridges and fired cartridge cases in a cylinder should be noted.

Q. Photograph the ricochet area and then take scrapping/washings of the same. Also preserve ricochet traces (such as sand, earth, wood, fibre) on bullets.

R. Dry the clothes, bullets, pellets, cartridge cases, fire arms etc., before packing.

S. Use proper technical terms in the Letter of Advice along with detailed case history (accidental; negligent firing; etc.)

T. Sample seal and seals on parcels should be legible.

U. Packing must be intact and the description of parcel; PC name etc.; should tally with Letter of Advice (LOA).

V. Scaled colour photographs of fire arm wounds should be sent.

W. Packing should contain outer label.

X. One parcel should contain case property of one crime only.

Donts

2.A. Do not use probes to extract bullets/pellets from holes.

B. Do not send the loaded fire arm. In case, due to some reasons, it becomes necessary to send a loaded firearm, the box containing the firearm may be labelled as "Loaded firearm, handle with care". The safety catch may also be put in the safe position.

C. Do not meddle with the inside of the barrel.

D. Do not wash barrels/bullets/cartridge cases.

E. Do not pack when the articles are wet.

F. Do not cut the affected portion or its immediate surroundings while removing the clothing.

G. Don't use coins or any common items as seals.

H. Don't send fire arms without packing.

(E) Economic Crimes - Fraud, Forgery, Cheating and Criminal Breach of Trust.

523. Some of the important provisions of The Andhra Pradesh Protection of Depositors of Financial Establishments Act, 1999 are reproduced below for better understanding :

The Act enables attachment, forfeiture and auction of properties accrued by the accused and distribution of auctioned amount to the depositors on pro-rata basis

OBJECT: Since many unscrupulous Financial Establishments in the State are cheating innocent, gullible depositors by offering very attractive rates of interests, to curb these malpractices, the State Government has brought separate law by undertaking legislation called "The Andhra Pradesh Protection of Depositors of Financial Establishments Act 1999" with amendment Act, 2003.

Definitions: (Sec: 2)

2(c) "Financial Establishment" means any person or group of individuals accepting deposits under any scheme or arrangement or in any other manner but does not include a corporation or a Co-operative society owned or controlled by any State Government or Central Government or a banking Company as defined under clause (C) of Sec. 5 of the Banking Regulation Act 1949 (Central Act 10 of 1949) Money Circulation Scheme under PCMCS Act is defined under:

A.P. Protection of Depositors of Financial Establishments Act-1999 (APPDFE Act, 1999).

Prize Chits and Money Circulation Scheme (banning) Act, 1978, (PCMCS Act, 1978).

Financial Establishment is defined under Sec.2 (C) of AP Protection of Depositors of Financial Establishments Act-1999.

Sec. 2 (c) "Money Circulation Scheme" means any scheme, by whatever name called, for making a quick or easy money, or for the receipt of any money, or valuable thing as the consideration for a promise to pay money, on any event or contingency relative or applicable to the enrolment of members in to the scheme, whether or

not such money or thing is derived from the entrance money of the members of such schemes or periodical subscriptions.

Competent Authority :- (ADG, CID is the competent Authority for CID Cases, vide *G.O.Ms. No.193, Home (Genl-B), dt: 23/08/2001*, Collectors and District magistrates in the District, Commissioners of Police in cities vide *G.O. Ms. No. 34, Home (Genl-B) Dept., Dt: 29.10.1999*.

b) Sec.2 b defines 'deposit' means the deposit of a sum of money either in lump sum or instalments made with a financial establishment for a fixed period, for interest or return in any kind;

Attachment of properties by orders of Government (Home)

Sec: 3 deals with attachment of properties on default in respect of deposits:- On the complaint of depositors that

(i) Financial Establishments defaulted or likely to default in the return of deposits. (or)

(ii) When the Govt. have reason to believe that any Financial Establishment is acting in a manner prejudicial to the interest of the depositors with an intention to defraud (or)

(iii) When the State Govt. has reason to believe that such Financial Establishment is not likely to return the deposits after maturity,

Procedure for investigation by the Investigating Officer :

On receipt of information preliminary enquiry to be conducted to find out whether the activity falls under the definition of "Money Circulation Scheme" Financial Establishment based on the details.

3(d) **Ingredients of the offence u/s 420 IPC and offences under APPDFE Act, 1999, PCMCS Act, 1978**

A.1) Enrolment of members in to the scheme

2) Entrance money to be paid / paid to become members of the scheme.

3) Enrolment of other members in to the scheme

4) Receipt of money from the pyramid chain and remittance of money in to the pyramid chain

B.1) Causing wrongful loss to the members/ subscribers/contributors

2) Making wrongful gain for the Directors/relatives family members of Directors/Chairman like real estate/other business etc.,

3) Diversion of funds to other activities

4) Dishonest inducement of contributors /members to remit money into the scheme

C. Conspiracy by the organisers to defraud the public and make wrongful gain for themselves.

D. Conspiracy before launching money circulation scheme and after launching the scheme for enrolling chain of members with a view to defraud at a later stage.

Investigating Officer to ascertain Intention, preparation and commission of offence(Sec.8 of IEA) with previous or subsequent conduct .

E. For proving Criminal misconduct and criminal conspiracy must have been put into action by collecting deposits, enrolment of members in money circulation scheme.

F. Collection of inauguration photographs, News papers, pamphlets, scheme brochures, etc., Name, cell numbers and addresses of the Directors/MD etc., including their e-mail IDs.

G. Conspiracy is held to be continued and renewed as all its members act in furtherance of common design. Investigating Officer has to collect such evidence to prove conspiracy Decisions taken in Board meetings, Minutes of the meeting etc. Minute Book has to be seized as evidence. Individual visiting cards of MD / Directors have also to be marked as Exhibits.

H. 'Common design' may be proved by necessary implication by ascertaining money transfer/deposit details showing existence of state of mind or body or bodily feelings.

I. Act of accused may not be illegal but the money accrued by illegal means and such meeting of minds proves conspiracy.

3(e) Investigating Officer has to check up whether such establishment comes under financial establishment as per section 2 (c) of A.P. P.D. F.E. Act 1999 which envisages attachment of properties (Sec. 3) by the competent authority (ADG CID for CID cases, District Collectors in Districts and Commissioners of Police in Commissionerates). The Investigating Officer has to send proposals through competent authority for ad-interim orders on the properties secured by the money of the depositors and later auctioning of such properties and distributing the auction money equitably among the depositors based on the documents through Special Court proceedings.

3(f) Preliminary enquiry should be completed within 7 days from the date of information being entered in the General Diary. *[Lalita Kumari*

vs. State of UP., WP(Criminal) No.68/2008 dt.12-11-2013 of SC of India]. At the end of 7 days, Investigating Officer has to arrive at a conclusion whether or not an offence is made out.

3(g) F.I.R. can be registered u/s 420, 120(B), IPC and Sec.3,4,5 of Prize Chit and money Circulation Schemes(Banning) Act, 1978 or under A.P.P.D.E.F.E. Act Sec.3 and 5 as per the facts. Investigating officer has to write to Sub-Registrar / Jt. Registrar / I.G. Registration not to entertain any property transfer by the listed accused and obtain acknowledgement.

3(h) Electronic evidence should be collected after duly sending Computer Hard Disk for Cyber Forensic Examination along with other material evidence to elicit information on financial transactions, Coded accounting etc. Entries to be deciphered by experts.

3(i) The Bank statements of all the Bank accounts of Managing Director and all other Directors and their kith and kin have to be obtained for the period before they started the company and after starting the company. Investigating Officer has to collect income tax returns. Investigating Officer while going through I.T. Returns, examine their Auditor and record his statement. With the help of Income Tax officers, cross check I.T. Returns with the capital amount, gains made, wrongful gain to the Directors for a period of time and wrongful loss to the subscribers/Depositors. After scrutinising the Balance sheet, Investigating officer has to check up whether the offence u/s 420, 120(b) IPC or other sections of law like forgery, Impersonation have taken place. Whether the Deposits come under the Financial Depositors Act and Money Circulation Act and accordingly add those section and write 1st C.D., file a memo in the court for adding the new offences.

3(j) **Search - Arrest** :

Search of the office / residence for documents / circumstantial evidence should be conducted in the presence of a Government Official and a civilian panch witnesses and proceedings should be drafted. Passport, if any, of accused should be seized and sent to the court.

Investigating Officer should carefully, prepare Remand C.D. and mention the version of the accused in the regular C.D. The charge sheet should be prepared on all the Conspirators based on the forensic auditing evidence.

3(k) Movable/Immovable Properties purchased by the Directors/Managing Director/Chairman, either in their names or in the names of the family members or benami names to be obtained from the stamps and Registration Department and "matrix" has to be prepared as

shown below. Properties purchased before starting the company, properties purchased after starting the company have to be ascertained to prove the wrongful gains.

Name of the accused with address, cell phone No. and e-mail (accused : Manager/ Promoters/ directors/ MD/ Chairman)	PAN No. issued by I.T. Dept.,	List of properties (movable / immovable) before starting the Money Circulation Scheme / Fin. Estt. with Sy. No. valuation as per documents	List of properties acquired by himself and family members after the Money Circulation Scheme / Financial Establishments started function ing with valuation.	Various bank A/c No. With balance before starting the MCS/ Financial Establishments	Various Bank A/c opened after the MCS / Financial Establishments	List of addl. Properties acquired by himself and family members .	Addl. Cash balance / transactions accrued by him / her and family.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

(Abbreviations: MCS= Money Circulation Scheme, F.E= Financial Establishment).

3(l) Hand writing expert opinion should be obtained (Sec. 311- A Cr. PC) through Court wherever, need be regarding signatures on documents, cheques etc.

3(m) Charge sheet should be vetted by the Legal Advisor before filing and audit report to be Scrutinized by an independent forensic auditor in liaison with Income Tax Officer.

Sequence of Investigation :

1.A. Receipt of complaint. If complaint clearly makes out embezzlement / deception / defrauding depositors / making wrongful gain for themselves, straightaway a case u/s 420 IPC, Sec.3 & 5. of APPDFE Act can be registered.

1.B. If the complaint is vague, a GD entry is to be made and preliminary enquiry (*as per Lalit Kumari Vs State of UP, WP (criminal) 68/ 2008. of Supreme Court of India,dt.12-11-2013*) and finalize the enquiry within 7 days from the date of G.D. entry and take up registration of the case as per the offence ingredients.

3. Identifying movable and immovable properties of all family members (Rule.6 (3)) of all the promoters, manager, Director/MD/Chairman advisor and other close relatives from the Registration Department with specific survey No. Extent, villages / Town. If a building is identified name of the original owners, date of transfer of the said property, value, who is paying municipal Tax etc., details or to be ascertained.

4. Photo copies of all such documents (movable/immovable properties) are to be secured.

5. Income Tax return before starting the Deposits Establishment and after are to be collected for all the concerned (in para 3).

6. With the help of an auditor and I.T. official a 'matrix' has to be prepared to arrive at the quantum of wrongful gain made by the Directors/MD etc. (PSO 522-3(k) Matrix as shown is prepared (Rule 6) for clarity.

7. Case diary part I should be exhaustive with all the details, as CD part I is a confidential record can be perused by the Court while remanding the accused/ entertaining bail application etc.

8. Arrest has to be made. In the meanwhile Investigating Officer has to file counters from time to time to preclude accused from getting anticipatory bail.

9. Competent Authority will have to write to banks to freeze accounts to write to registration Department and other concerned Revenue Department officers not to permit Transfer of the (movable/immovable assets (Rule .6 (1)).

10. Investigating Officer will put up file before the Competent Authority to write to the Government (Home) for attachment of properties by issuance of *ad-interim* orders (under Sec.3 Rule 3 of Rules 1999). Any transfer of property after issuance of ad-interim attachment orders by the accused is void (Rule.7)

11. Investigating Officer will file such *ad-interim attachment_orders* in the Special Court to issue orders for making such order *absolute*.

12. Special Court after due notice and arguments will make ad-interim orders absolute.

13. Competent Authority has to write to the Special Court to Constitute an "auction Committee" for ensuring auction of the properties with a judicial Officer, Revenue Officer, Registration Department Officer and a Police Officer in the committee.

14. Paper notification (2 Telugu Papers + 2 English papers) to be issued regarding auction with 'property details'.

15. 'Open auction' to be conducted and properties to be registered in the names of buyers.

16. Pro-rata distribution of the auctioned money to the depositors through Bank Cheques with acknowledgement and such proceedings to be intimated to the Special Court.

Criminal Proceedings are taken up parallel u/s 5 of the Act r/w IPC offences. **Auction /Criminal action are independent of each other**.

If the property found is not sufficient to repay- then State Govt. can also attach -Other properties of the Financial Establishment, or the promoter, manager or member of the Financial Establishment and transfer the control over the said money or property to the competent authority.

Competent Authority : (Sec:4) - Authority appointed by the Govt. by its notification u/s 3.

1) Competent Authority also have to discharge other powers as prescribed in the notification, apart from the powers conferred by the Act.

2) The Competent Authority shall apply to the Special Court, within fifteen days for making ad interim order attachment absolute along with an affidavit describing the facts, default made by Financial Establishment and details and value of the property purchased out of the deposits and any other property attached u/s 3.

(ADGP, CID in CID cases, CP of Police in Vishakhapatnam and Vijayawada and District Collectors in non- Commissionerates are designated by Government as Competent Authority)

(*G.O.Ms.No.349, Home(General-B) dt.29-10-1999 of Govt .of AP)*

Penal Provision:- Sec:5

Penalty for default:- Responsible persons in case of defaults in the return of the deposit or interest as agreed upon are

(a) Every person responsible for management of affairs including -

(i) Promoter,

(ii) Manager,

(iii) Member of the Financial Establishment

(iv) Financial Establishment

Punishment: Imprisonment for a term which may extend to ten years and with fine which may extend to rupees five lakhs.

Financial Establishment - Fine up to five lakhs. Special Court: (Sec: 6) State Govt. with the concurrence of Chief Justice of High Court, constitute a District and Sessions Court as a Special Court. (All District Judges) in Districts and MSJ in Commissionerate are constituted as Special Courts. (*G.O.Ms.No.70, Home (General-B) dt.22-3-2000)*

Special Court on the application by the competent authority, pass or issue orders for equitable distribution among the depositors of the money realized from out of the property attached.

Powers of Special Court: (Sec: 7) in passing orders making attachment orders absolute or otherwise.

1. The Special Court shall issue a show-cause notice to the Financial Establishments specifying why the order of attachment should not be made absolute.
2. Also issue notices to such persons and invites objections if any they have or claim, interest over the property attached. (In the absence of notice also anybody can file objections).
3. If no objections are there, Special Court shall forthwith pass an order making ad-interim order of attachment absolute.
4. Special Court shall investigate the case, examine witnesses, hear the suit and exercise all the powers of a court hearing under code of civil procedure, 1988 and evidence can also be adduced by persons interested in the property attached.
5. Court after hearing pass orders making attachment order absolute (or) Cancel ad interim order of attachment. But shall not release when the property is less than the amount to be repaid.

Attachment of property of certain transferees :

If the property attached is felt insufficient to repay to the depositors, The Special Court may also issue Show Cause Notice to such transferees to whom properties were transferred by the Financial Establishments either before or after commencement of the Act, asking why such property should not be attached.

If the Special Court comes to a conclusion that such transfer of property is for consideration but not in good faith shall order for attachment of 'transferee's property equivalent to the share of transferred property.

Security in lieu of attachment: (Sec: 9)

Any Financial Establishments or person whose property has been attached or about to be attached is prepared to give security in lieu of such attachment, the Court may cancel ad interim order.

Administration of property attached: (Sec: 10)

Special Court after due procedure prescribed under this section, may provide sums for maintenance of the family of the applicant, to meet legal expenses or for business purpose.

Appeal :

Appeal lies to High Court within 30 days of any order of the Special Court.

Special Public Prosecutor or Special Government Pleader :

Government shall appoint an advocate who has been in practice as an advocate for not less than ten years, for conducting cases in the Special Court.

Procedure :

1) Court to take cognizance without being committed to it.
2) To follow the procedure prescribed under Cr. PC.
3) Warrant case procedure for trial. Act to over ride : (Sec:15) It shall have over riding power.

Appointment of Competent Authority :

(*G.O.Ms.No.349, Home (General-B), dt: 29-10-1999* of AP) In exercise of the powers conferred by sub-section (1) of Section 4 of the Andhra Pradesh Protection of Depositors of Financial Establishments Act, 1999 (Act 17 of 1999), the Government of Andhra Pradesh appointed the District Magistrates of all the Districts and the Commissioners of Police of Hyderabad, Visakhapatnam and Vijayawada in respect of the cities of Hyderabad, Visakhapatnam and Vijayawada as competent authority to exercise control over the properties attached by the Government under Section 3 and such other powers and discharge such other functions as may be prescribed under sub-section (2) of Section 4 of the said Act within their respective jurisdiction.

Appointment of the Additional Director General of Police, C.I.D., as Competent Authority for Protection of Depositors of Financial Establishments Act, 1999. *(G.O.Ms.No.193, Home (General-B), dt: 23-08-2001 of Govt. AP*) In exercise of the powers conferred under sub-section (1) of Section 4 of the Andhra Pradesh Protection of Depositors and Financial Establishments Act, 1999 (Act No.17of 1999), the Government of A. P appointed the Addl. Director General of Police, CID., or Inspector General of Police, C.I.D., as the case may be also as Competent Authority to exercise control over the properties attached by the Government under Section 3 and such other powers and discharge such other functions as may be prescribed under sub-section (2) of Section 4 of the said Act in the entire jurisdiction of the State in so far as the cases being investigated by C.I.D. or concerned.

Evidence to be collected :

1) Applications to the Financial Establishment (FE)

2) Receipts/Bonds/Certificates issued by Financial Establishment to the Depositors.

3) Relevant data available with the Financial Establishment in respect of transactions.

4) Registration particulars with ROC.

5) All permissions granted in favour of the Financial Establishment.

6) Details of properties of the Financial Establishment, Agents, Managers and Directors.

7) Details of the properties in the names of the transferees if any.

8) Statements relating to Bank-Accounts and other financial particulars of the Financial Establishment.

9) Audit reports and Income Tax particulars if any.

10) Brochures, Pamphlets issued by Financial Establishment in order to lure the public.

Economic Crimes in general:

523-1. Economic offences are also called financial crimes and white-collar crimes. These relate to offences of fraud, forgery, cheating, misappropriation, criminal breach of trust, money laundering etc. They also include conspiracies and abetments for the commission of these offences. With the increase of corporate, banking, stock market, trade and other commercial activities, the types and magnitude of fraud has undergone a vast change. The export and import regulations, customs, excise and income tax levies, foreign exchange transactions along with revolution in information technology and electronic transfer of money have brought into existence of several methods that have provided opportunities for crime in the form of fraudulent transactions. Several non-banking financial institutions have come into existence. The use of computers also has thrown up the problems of computer and cyber crimes.

2. Several laws have been made to regulate and also to penalise activities, which are illegal and aimed at defrauding the public, and the Government. Sections 415 to 424 in Chapter XVII, Chapter XVIII of the IPC, and other Acts such as the Excise Act, the Income Tax Act, the Companies Act, the Customs Act, AP Control of Organised Crime Act 2001 etc. contain the relevant law.

3. Fraud involves deception, and has been explained as causing to believe what is false or misleading as to facts, or leading into error by intentional concealment of facts or positive mis-representation.

4. Forgery has been defined in section 463IPC and a false document in section 464 IPC. Though forgery in its simple form is not cognizable the police are very often called upon to investigate forgery in conjunction with other cognizable offences or under the orders of a court.

5. The ingredients to prove the offence of forgery are ¾ (a) the making of a false document or part of it; (b) such making should be with intent - (i) to cause damage or injury either to the public or to any person, or (ii) to support any claim of title, or (iii) to cause any person to part with property, or (iv) to enter into any express or implied contract, or (v) to commit fraud or that fraud may be committed.

6. Detailed instructions regarding the examination of questioned documents are contained in Chapter 31.

7. Corporate frauds have emerged as a major economic offence in recent times. This term includes a large number of activities such as frauds by business people against each other, against investors, consumers, tax authorities, by directors and employees against their companies. Different forms and *modus operandi* are adopted.

8. The broad categories are embezzlement by employees, management frauds, investment scams and customer frauds. Stock market frauds include sale of forged share certificates, cheating by sub-brokers, theft of securities from share registries or theft while in transit. The range of bank frauds is also quite wide and covers fraud prone areas in the banking system like loans, advances, remittances and foreign exchange transactions. The use of plastic money has also generated offences of credit and cheque fraud. Technological developments have propelled some of the old crimes into new shape. For example, the developments of the multi-colour copiers whose laser scanners can reproduce exact colour variations and other subtle nuances in the printing process have increased the forged currency notes rackets. The direct dialling facilities, computer aided dispatch system and fax message enable fraudsters to distance themselves geographically from their targets.

9. The off-shore banking and investment schemes and tax havens have propelled the financial crimes enabling the offenders to conceal the proceeds of crime. The documentary frauds in the shipping of goods are done to gain benefits of export by fraudulent means. The use of forged documents for land grabbing, sale of bogus marks sheets and degree certificates and travel documents are yet another category of financial offences.

523-10. Counterfeit Currency Cases :

F.I.C.N.(Fake Indian Currency Note) case investigation :

Instructions in regard to counterfeit coins and currency notes are contained in Chapter 31, with which every investigating officer should be familiar with.

The following matrix would give clarity on the offences of 'counterfeiting'

Sec. 489 A IPC	Counterfeiting Currency Notes or Bank Notes	Cognizable	Non-bailable	Triable by Court of Sessions
Sec. 489 B IPC	Using as genuine, forged or Counterfeit Currency Notes or bank Notes	-do-	-do-	-do-
Sec. 489.C IPC	Possession of forged or Counterfeit Currency notes or Bank Notes	-do-	Bailable	-do-
Sec. 489. D IPC	Making or Possessing instruments or materials for forging or counterfeiting Currency Note or Bank Notes	-do-	Non-bailable	-do-
Sec. 489.E IPC	Making or using documents resembling Currency Notes or bank Notes	Non-cognizable	Bailable	Triable by any Magistrate

10.a. While investigating a case u/s 489 (A) to (E), IPC r/w Sec.15 and 16 of Unlawful Activities (Prevention) Act, 1967 r/w amendment Act, 2012 (threatening "economic security" of India-causing or likely to cause damage to the monetary stability of India by way of production or smuggling or circulation of High quality Counterfeit Indian paper currency, coin or of any other material), the following aspects have to be looked into :

1. Every I.O. should be aware of "Exact nature of examination" before sending the Letter of Advice to FSL.
2. During the seizure of counterfeit notes, the numbers on the notes should be same as those written on the Letter of Advice.
3. On physical verification, description of the notes should tally with that of the column No.6 of the Letter of Advice.
4. Signatures of *Panch* witnesses shall also be taken on the sealed bundle.
5. In the chain of custody, seal of the I.O. is very important. The sample seal on the Letter of Advice should match with the "specimen seal" on the cover.

10. b. The Investigating Officer has to follow the rules "**The Investigation of High quality Counterfeit Indian Currency Offence Rules, 2013**" :

Investigation Officer is authorised to invoke Sec.15 r/w Sec. 16 of the Unlawful Activities (Prevention) Act, 1967 r/w 2012 Amendment Act after obtaining a report of the authorised FSL in respect of seized currency (Rule-3) when such notes are of High Quality Counterfeit Indian Currency of more than Rs. 1 lakh and follow Rule.6 (Procedure for applying Sec. 15 iii (a) of Unlawful Activities (Prevention) Act in application of threat to 'economic security'.

10. c. Even though the amount is less than Rs.1 Lakh the IGP rank Officer can order investigation u/s 15 of Unlawful Activities (Prevention) Act, 1967 as a special case.

10. d. Investigation Officer has to Prove 'Mens rea' to establish knowledge of Counterfeiting in selling, buying or receiving from another person and also possessing. Investigative Officer has to conduct a panchanama for seizure mentioning Sl. No. Value, from whom and what circumstances they were received and date of receipt, designation of officer receiving the note, reasons for not registering a case if case has not been registered and any other particulars.

10. e. Investigation Officer to take the accused /suspect in to custody and examine /record the confession statement in the presence of panch witnesses, seize the material objects, proceed along with panch witness and accused to the nearest Nationalised Bank in the initial stage to check up genuineness through the U.V. /IR Scanning machines that whether the notes are counterfeit or otherwise. Audio-video electronic recording of evidence and witness may be recorded u/s 161 Cr. PC.

10. f. As Sec. 489 A, B, C, D are cognizable and non bailable, the accused has to be arrested as per procedure. Intimation of arrest need to be flashed to all the SsP/CsP in A.P. /Telangana and to all ADGPs CID in the Country to ascertain background details including message to SsP of those districts to which the accused belong to.

10. g. Statement of accused to be recorded regarding source and the quantum of counterfeit notes in his possession during pre-remand interrogation. In case of a gang involvement, it should taken to Police remand for interrogation, ascertain data of the previous FICN cases of the State and other places like Malda of West Bengal, Katni of Madhya Pradesh etc.

10. h. Additional memo to be filed in the Court if there are other accused whose names are elicited during interrogation/ Questioning when other offences are made out.

10. i. Investigation Officer to send the accused to the Jurisdictional Court with a remand report.

10. j. Investigating Officer to send the Counterfeit notes to the authorised Forensic Authorities (Rule 4 of the Investigation of High quality Counterfeit Indian Currency Offences Rules, 2013). State Forensic labs and Forensic Labs of Government of India are authorised as per the Rule.4.

10. k. Investigating Officer to obtain Bank Statement of the accused to know about debits and credits and also Foreign Exchange bank A/c if any.

10. l. After obtaining FSL Opinion, source of FICN and tracing such source charge Sheet should be a laid under IPC Sections as well as Unlawful Activities (Prevention) Act, 1967 r/w 2012 Act. Supplementary charge sheet can be laid u/s 173 (8) Cr.PC.

10. m. Superintendent of Police /DCP have to write to the Enforcement Directorate (E.D.) in the event of huge seizure of such high quality FICNs for registering ECIR (Enforcement Case Information Report) at E.D. to probe in detail in cases of Sec. 489 A, 489 B, IPC (Schedule of PMLA, 2002 r/w 2012 Amendment Act).

10. n. A Suspect sheet should be opened and copy sent to the District SP/ CP of respective units to which the accused persons belong to.

523.11 Forged Currency Notes :

Under the Currency Department Code, forged currency notes received into Treasuries and Banks are sent to the Police Station in the jurisdiction of which the Treasury or Bank is situated for enquiry. Whenever, counterfeit currency is presented or discovered by the Bank an offence may be construed to have been committed and the Police may register a case and investigate it.

12. The same principle should be applied and followed in cases in which a member of the public reports the appearance of forged notes direct to the police station.

13. In every instance, in addition to sending a special report to the Criminal Investigation Department, a report should be sent to the Currency Officer, Hyderabad, immediately on the appearance of a forged note. The report should give the following particulars.

A. series and number of notes

B. value

C. from whom and under what circumstances they were received and date of receipt

D. designation of officer receiving the note

E. reasons for not registering a case, if a case has not been registered, and

F. any other particulars

G. The note seized should be sent to the Currency Officer along with the report, except when the note is required for investigation, in which case the note should be forwarded to the Currency Officer after the investigation is over, quoting the number and date of the original report sent to him.

14. Various methods are employed for manufacture of counterfeit currency. The printing press, the offset machines and more recently the computer aided printing processes and the colour photocopiers are used in the manufacture of counterfeit currency.

15. **Methods employed for circulating counterfeit currency**: The fake currency is mixed with genuine notes and passed on in bundles to unsuspecting but avaricious victims. The forged currency notes are passed on to the agents at a reduced value providing them with the commission as an incentive. The notes are also used in shops and establishments for the purchase of valuable items.

16. **Method of identification**: The forged currency notes can be identified from the paper, colours, sharpness of the print, watermark, security thread and serial numbers. The paper of the genuine notes is crisp and the print extremely sharp and of good quality and each note contains a separate number. The alignment of number is not proper on a forged note compared to a genuine note.

17. The source of manufacture is the vital thing which should be the primary objective of the IO.

18. All the counterfeit currency notes in circulation have to be pooled by the Investigation Unit of the CID and each series separated. An analysis and comparison of different series and areas of their circulation would provide a clue to the Investigating Officer. Each series should form a separate case for investigation unless the comparison of different series shows the same pattern.

19. The IO should maintain close liaison with the Reserve Bank to know the circulation of the fake currency in question. The opinion of the expert on the type of paper used, colours, watermark and security thread mark would provide clue as to the source from where these materials were obtained. It is rare that a genuine security thread can ever be inserted in a fake currency note. It is shown more as a thin line whereas in a genuine currency note a metal wire is inserted as part of the paper on which note is printed.

524. Investigation of Money Laundering Cases:

Enforcement Directorate registers ECIR (Enforcement Crime Information Report) based on the scheduled offences in Prevention of Money Laundering Act,2002. The Act envisages Adjudicating Authority to exercise jurisdiction, power and authority conferred on it to confirm attachment or order confiscation of attached properties. Appellate Tribunals are set up to hear appeals on matters decided by Adjudicating Authority. Department of Revenue, Ministry of Finance of Government of India established Financial Investigation Unit (FIU) in November, 2004 as the Central National Agency responsible for receiving, possessing, analysing and disseminating information related to suspected financial transaction.

FIU-IND is also responsible for coordinating and strengthening efforts of national and international intelligence, investigation and enforcement agencies in pursuing the global efforts against money laundering and related crimes.

FIU is independent body reporting directly to the Economic Intelligence Council (EIC) headed by the Finance Ministry.

Local Police have to send reports to Enforcement Directorate as per scheduled Offences, after obtaining data from their income tax returns, properties secured in their names / family members names and the sudden increase in their income /Expenditure.

Based on such reports sent by SP/DCP/CP concerned, Enforcement Directorate registers ECIR after due scrutiny.

Non-banking Financial Companies (NBFCs) are mandated to strictly observe Know Your Customer (KYC) guidelines and Anti-money Laundering measures is formulated.

Non-banking Financial Companies monitor all cash transactions of the value of more than Rs. 10 lakhs or its equivalent in foreign currency

Non-banking Financial Companies are mandated to maintain information in respect of transactions of Rs 10 lakhs and above.

i. The Nature of transactions

ii. The amount of Transactions the currency in which it was denominated.

iii. The date on which the transaction was conducted and

iv. The parties to the transactions.

Investigation of Money Laundering cases

PREVENTION OF MONEY LAUNDERING ACT, 2002 (Government of India Act) :

524-1. Enforcement Directorate is the authorised agency to investigate and responsible for administering the Prevention of Money Laundering Act. Cases under The Prevention of Money Laundering Act, 2002 and registering initially by opening a T-1 file(which is an Intelligence file) and later by ECIR (Enforcement Case Information Report). Enforcement Directorate is empowered to take up investigation only after registration of cases by Law Enforcement Agencies (Police / CBI/ other agencies) for contravention of specified Acts (28 in number as per the schedule) under specified sections of Law.

(i) The Prevention of Money Laundering Act, 2002 has come into force with effect from 1 July, 2005 and was amended by Prevention of Money Laundering (Amendment) Act 2009 w.e.f. 01.06.2009 and further amended in 2012 w.e.f.15-2-2013.

(ii) The goal of a large number of criminal activities is to generate profit for an individual or a group. Money laundering is the processing of these criminal proceeds to disguise their illegal origin. Illegal arms sales, smuggling, and other organised crime, including drug trafficking and prostitution rings and other criminal activities, can generate huge amount of money. Embezzlement, insider trading, bribery and computer fraud schemes can also produce large profits and create the incentive to 'legitimise'' the ill-gotten gains through money laundering. The money so generated is tainted and is in the nature of "dirty money" to make it appear Legitimate Money and bring it into legal circulation.

(iii) Usually, the process of Money Laundering goes through the following three stages:

(a) Placement:- The Money Launderer, who is holding the money generated from criminal activities, introduces the illegal funds into the financial system. This might be done by breaking up large amount of cash into less conspicuous smaller sums which are deposited directly into a Bank Account or by purchasing a series of instruments such as Cheques, Bank Drafts etc., which are then collected and deposited into one or more accounts at another location.

(b) Layering:- The second stage of Money Laundering is layering. In this stage, the Money Launderer typically engages in a series of continuous conversions or movements of funds, within the financial or banking system by way of numerous accounts, so as to hide their true origin and to distance them from their criminal source. The Money Launderer may use various channels for movement of funds, like series

of Bank Accounts, sometimes spread across the globe, especially in those jurisdictions which do not co operate in anti Money Laundering investigations.

(c) Integration:- Having successfully processed his criminal profits through the first two stages of Money Laundering, the Launderer then moves to this third stage in which the funds reach the legitimate economy, after getting inseparably mixed with the legitimate money earned through legal sources of income. The Money Launder might then choose to invest the funds into real estate, business ventures and luxury assets, etc. so that he can enjoy the laundered money, without any fear of law enforcement agencies.

(iv) Section 3 of PMLA stipulates "Whosoever, directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money laundering". Section 2(1)(u) of PMLA stipulates "Proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property"

(v) The offences listed in the Schedule to the Prevention of Money Laundering Act, 2002, are scheduled offences in terms of Section 2(1)(y) of the Act. With the amendment of the Act in 2009, a large number of offences have been included in the Schedule of the Act. The scheduled offences are divided into three parts-Part-A, Part-B &Part-C.

Part C of the Schedule deals with trans-border crimes, and is a vital step in tackling Money Laundering across international boundaries.

Every Scheduled Offence is a Predicate Offence. The Scheduled Offence is called Predicate Offence as the offence is a prerequisite and integral part of Money Laundering Offence.

(vi) The various Acts covered in the Schedule to PMLA:

a) Indian Penal Code (IPC-44 Sections)

b) NDPS Act, 1985 as amended in Amendment Act,2014

c) Unlawful Activities (Prevention) Act, 1967 as amended in 2012.

d) Prevention of Corruption Act, 1988 with Amendment Act, 2013 /14.

e) Customs Act, 1962

f) SEBI Act , 1992

g) Copyright Act , 1957

h) Explosives Substance Act, 1908

i) Arms Act, 1959

j) Immoral Traffic (prevention) Act, 1956

k) Bonded labour system (abolition) Act, 1976

l) Child labour (Prohibition and Regulation) Act, 1986

m) Transplantation of Human Organs Act. 1994

n) Juvenile Justice (Care and protection) Act, 2015

o) Emigration Act, 1983

p) Passport Act, 1967

q) Foreigners Act, 1946

r) Trademark Act , 1999

s) Information Technology Act, 2000 with amendment act, 2008.

t) Explosives Act, 1884

u) Wild Life (Protection) Act , 1972

Scheduled Offences are investigated by agencies such as Police, Customs, SEBI, NCB, CBI, and other Law enforcement agencies under their respective Acts.

(vii) Following actions can be taken against the persons involved in Money Laundering:-

(a) Attachment of property derived or obtained as a result of a scheduled offence.

The attached properties may be provisionally attached and disposed off.

Sec. 5: Attachment of property involved in money-laundering.

Sec. 6: Adjudicating Authorities, composition, powers ,etc.

Sec. 7: Staff of Adjudicating Authorities.

Sec. 8: Adjudication.

(b) Persons found guilty of an offence of Money Laundering are punishable with imprisonment for a term which shall not be less than three years but may extend up to seven years and shall also be liable to a fine (Section 4 of the Act). When the scheduled offence is committed under the Narcotic and Psychotropic Substances Act, 1985, the punishment shall be imprisonment for a term which shall be up to ten years.

(viii) **The Investigating Officers under PMLA have the powers** :-

(a) To conduct survey of a place (Section 16)

(b) To conduct search of building, place, vessel, vehicle or aircraft & seize records & property (Section 17)

(c) To conduct personal search (Section 18)

(d) To summon and record the statements of persons concerned (Sec. 50);

(e) To arrest persons accused of committing the offence of Money Laundering (Section 19).

(f) To provisionally attach any property suspected to be derived from the proceeds of crime (Section 5)

(g) Filing charge sheet before special court (designated Court)

(ix) The Director, Special Director, Additional Director, Joint Director, Deputy Director or Assistant Director of the Directorate of Enforcement have the power to summon any person whose attendance he considers necessary whether to give evidence or to produce any records during the course of any investigation or proceeding under this Act.

Such proceedings are deemed to be judicial proceedings within the meaning of section 193 and section 228 of the Indian Penal Code. (Section 50)

(x) The statement recorded before the Investigating Officer under PMLA is admissible evidence in the Court as such proceeding under Section 50(2) and 50(3) of the Act is a judicial proceeding within the meaning of Section 193 and 228 of IPC.

(xi) When a person is accused of having committed the offence under section 3, the burden of proving that proceeds of crime are untainted property shall be on the accused. (Section 24)'Property' means any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located [Section 2(v)]

(xii) Where the Director, or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section, has reasons to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that

(a) any person is in possession of any proceeds of crime;

(b) such person has been charged of having committed a scheduled offence; and such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime under this Chapter, he may, by an order in writing, provisionally attach such property for a period not exceeding 180 days from the date of the order, in the manner provided in the Second Schedule to the Income-tax Act, 1961 (43 of 1961).

(xiii) No such order of attachment shall be made unless in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 157 of the Code of Criminal Procedure, 1973 (2 of 1974), or a complaint has been filed by a person authorized to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be. (Section 5)Every order of provisional attachment shall cease to have effect after 180 days from the date of the order, if no order is passed by the Adjudicating Authority in this regard. However, within the said 180 days, if the Adjudicating Authority, by an order, records a finding that all or any of the properties are not involved in money laundering, then order of provisional attachment shall cease to have effect from the date of such order of the Adjudicating Authority. [Section 3(5)]

(xiv) Where the Adjudicating Authority decides that any property is involved in money-laundering, he shall, by an order in writing, confirm the attachment of the property.

(xv) Where on conclusion of a trial for any scheduled offence, the guilt of the person is proved in the trial court and order of such trial court becomes final, the order of attachment of property will become final. [Section 8 (3)]

(xvi) Where the attachment of any property becomes final, the Adjudicating Authority shall, after giving an opportunity of being heard to the person concerned, make an order confiscating such property. [Section 8(6)]

(xvii) After an order of confiscation, all the rights and title in such property shall vest absolutely in the Central Government free from all encumbrances. (Section 9)

(xviii)Offences specified under Part 'C' of the schedule

An offence which is the offence of cross border implications and is specified in –

1. Part A; or

2. The offences against property under Chapter XVII of the Indian Penal Code.

For the trial of an offence punishable under section 4 of PMLA, the Central Government, in consultation with the Chief Justice of the High Court, by notification, has designated one or more Courts of Session as Special Court or Special Courts for such area or areas or for such case or class or group of cases as specified in the notifications.

(xix) While trying an offence under PMLA, a Special Court has also to try an offence, other than an offence of money laundering, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.(Sec. 43)

(xx) **Sequence of Registration of ECIR by Enforcement Directorate:**

1. Information received from the Law Enforcement Agency about Registration of offence under the existing Law that include PMLA scheduled offences.

2. E.C.I.R. registered by ED after opening T.I. file and copy sent to the Directorate of Enforcement, New Delhi (Lok Nayak Bhavan)

3. Copy of ECIR sent to the Jurisdictional Court and sent to designated Special Court after completion of investigation (Special Courts at Visakhapatnam, Vijayawada, Tirupati)

4. Investigation is taken by an officer of Asst. Director and above rank. Only photocopies are required to initiate investigation while the original documents will be with the L.E.A.

5. The Assistant Director who is the investigating officer exercises all the powers mandated under PMLA like issuance of summons for production of documents, perusal appearance, discovery and inspection etc (Sec. 50 of the PMLA)

6. All proceedings summons and recording of SPs u/s 50 of PMLA are judicial proceedings (Sec. 50 (4) PMLA) and statements are admissible as evidence.

7. The Investigating Officer has powers of Survey (Sec. 16 PMLA),search and seizure (sec.17 PMLA) and search of persons (Sec. 18 PMLA) and to arrest (Sec 19 PMLA). At this stage, the investigating officer sends the accused to the Jurisdictional magistrate.

8. E.D. focuses attention on properties accrued by the offender through unlawful activities after the enactment of PMLA Act w.e.f 01.07.2005 and issue Provisional attachment order (Sec. of PMLA) by the officer of the rank of Dy. Director and above.

9. Copy of the provisional Attachment order is sent to the Adjudicating Authority in New Delhi (Jeevan deep Building, 4th floor , Sansad marg)

10. Within 30 days of issue of Provisional Attachment order, a complaint has to be filed by the same Dy.Director before the Adjudicating Authority (New Delhi).

11. Adjudicating Authority after affording reasonable opportunity to the accused person, either confirm the provisional attachment order (PAO) or rejects the same. (u/s 8 PMLA)

12. On confirmation of the PAO, the accused person may go for appeal before the Appellate Authority (in Lok Nayak Bhavan, New Delhi). On dismissal of the appeal, the PAO becomes final and possession will be taken over by the enforcement Director.

13. After confirmation of the PAO, ED will file charge sheet before the designated special court (District Judge Rank) and trial takes place.

14. Once the accused is convicted the property is auctioned and credited to Government of India.

15. The Act also envisages rigorous imprisonment for a period of not less than 3 yrs, which may extend to 7 yrs and also liable to be fined. For offences under NDPS Act the sentence is 10 years RI.

Money Laundering in General :

524-2. Money laundering, i.e., conversion of money secured through illegal means into white money is the main method, which helps the economic offenders. To facilitate transfer of the proceeds of crime which include narcotics trade, smuggling of arms and explosives, hawala transactions have come to surface. The total amount of money involved due to economic crimes is considerably higher compared to the traditional crimes such as dacoities, burglaries etc. To the list of various economic crimes should also be added corruption, violation of copy right, video and software piracy, computer fraud, computer forgery, computer hacking, adulteration, employment and immigration rackets, and host of other connected activities.

(i) Money Laundering for a layman means conversion of dirty money into clean money. See PSO 524-1(iv) for detailed definition. Laundered money is also directed for terrorist activities. Whoever, provides funds to any person or persons knowing that such funds are likely to be used by such person(s), to commit a terrorist act, shall be punished with imprisonment of not less than five (5) years but may extend to life (Sec.17 of the Unlawful Activities(Prevention) Act, 1967). It may also be defined as "(A) engaging directly or indirectly in a transaction which involves property by utilizing proceeds of crime, or (B) receiving, possessing, concealing, disguising, transferring, converting, disposing off within the territories of India, removing from or bringing

into the territory of India the property i.e., proceeds of crime". Crime refers to several IPC offences like waging war against the Government of India, murder, attempt to murder, voluntarily causing hurt, kidnapping for ransom, extortion, robbery, dacoity, criminal breach of trust, cheating, forgery, counterfeit currency etc.; certain provisions of the Prevention of Corruption Act, 1988; NDPS Act, 1985 and the Customs Act, 1962.

(ii) The money generated through 'crime' is liable to be confiscated by the State. The existing laws relating to confiscation of proceeds of crime are found in different statutes. Till the proposed money-laundering bill is enacted, the confiscation of proceeds of crime can be taken only under these laws. The important Acts in this regard are (A) Sections 102 and 452 of Cr.PC; (B) The Criminal Law (Amendment) Ordinance, 1994 (Ordinance XXXVIII of 1994); (C) Sections 111 to 121 of the Customs Act, 1962; (D) Section 68 of the Narcotic Drugs and Psychotropic Substances Act, 1985; (E) Foreign Exchange Management Act, 1999 (Section 63); (F) Smugglers and Foreign Exchange Manipulations (Forfeiture of Property) Act, 1976. The illegal currency transfers via non-banking channels are called '*hawala'*. It is an underground banking system. This medium is used for overcoming the Government regulations on foreign exchange and also to conceal the proceeds of illegal earnings.

(iii) The objects of money laundering are ¾

A. criminals distance themselves from the crime making it more difficult to prosecute them;

B. to prevent/delay the proceeds of crime from being confiscated if the criminal is caught;

C. enjoy the fruits of the proceeds without being noticed;

D. reinvest the proceeds in future criminal activity or in legitimate business;

(iv) The methods of laundering take the form of currency smuggling, real estate, gold and diamonds, shell companies, tax havens, casinos, hotels, stores, wire transfer etc.

524.3. Corporate Frauds and other Economic Offences.

There are various investigating agencies to deal with corporate frauds and other economic offences. The Customs and Central Excise, the Income Tax, the Directorate of Enforcement, the Securities and Exchange Board of India (SEBI) are some of the agencies authorised under the relevant Acts for investigation of cases. The criminal offences, which fall within the IPC as also the other cognizable

offences, which the police have been, empowered to investigate, is the responsibility of the police. The investigation of these offences requires a thorough knowledge of the procedures, laws and practice prevalent in financial sector, taxes both direct and indirect, exchange regulations, functioning of stock markets, banking, non-banking financial institutions, audit and accounting, computer technology etc. Next order contains instructions for guidance for investigation of economic crimes by the police and the Investigation Units or CID.

Investigation of Economic Crimes in General :

525-1. Preliminary Enquiry: In financial crimes the report generally lists out certain details with a request for investigation. The report may not clearly disclose a cognizable offence and at the same time the information cannot also be ignored. The newspapers also publish information on some frauds. The documents to support allegations may not be available immediately. Some of the information received may not be clear about the period and the exact offence committed but it may very often contain general information. The place of the offence in some cases is spread over a vast area. On the face of it, sometimes the information may only disclose a civil liability. In such situations it is necessary to take up a preliminary enquiry. The I.Os should have the full knowledge about the way these crimes are committed and its ramifications besides possessing minimum knowledge in Computer applications, foreign exchange transactions, import and export, excise and customs, share market transactions etc.

2. **Registration of FIR**: A preliminary enquiry into the information is permissible before registering an FIR and taking up investigation. As and when the enquiry discloses a cognizable offence, it should be registered and investigated. Sometimes departmental authorities conduct enquiries and lodge a complaint for registration of a case and investigation. In such cases the facts will be clear and the case should be registered and investigation taken up. If, even such report does not disclose an offence, the authorities should be informed in writing and requested to make further enquiries or clarify and send a report.

3. The investigation into economic crime is mostly based on documents and instruments. The IO has to secure all the relevant files and documents as per the procedure and processes prescribed in law. The location and tracing of the documents is a matter of utmost importance. In cases involving official agencies no time should be lost in getting hold of the connected files. The documents and files include those stored in computers. Presently computers of various

sizes are used to store information files or notes instead of paper files or notebooks or in addition to them. The courts have to be provided with best available evidence.

4. The forwarding of documents to the concerned experts and obtaining of samples are to be done with expedition and in the manner prescribed in Chapter 31 in the orders relating to documents.

5. The examination of witnesses particularly those who are connected with the documents are the other steps that an IO has to take. A questionnaire should be prepared with reference to the records and the statements of the witnesses recorded. It will be difficult for the witnesses to deny or mislead if the documents are in possession of the Investigating authorities.

6. The examination of the accused person in great detail is required to know the significance of various entries in the registers as also other documents seized in the course of investigation. As in the case of witnesses the IO covering all the points that require to be elicited should prepare a detailed questionnaire. It is in framing the questionnaire the skill of the IO is exhibited. The question should not be framed in such a manner that the accused comes to know the nature of evidence available with the investigating authorities. As investigation in economic frauds is a lengthy process, it will be necessary to fully utilize the provisions of remand of the accused to police custody. Lie detector tests wherever, necessary would be useful in such cases.

7. Mutual cooperation with different agencies and other institutions is extremely important in the investigation of these cases. After locating the witnesses or documents it would be very necessary to enlist the cooperation of the concerned authorities in securing the documents and the presence of the witnesses. The personnel either posted in the department or working elsewhere who have the expert knowledge should be identified and their help obtained. Mostly the accounts, banking, stock markets, excise and other tax departments and chartered accountants would be useful for consultation and scrutiny of documents in such cases.

8. The most effective method of dealing with economic offences is to obtain information relating to location of the money involved in the form of cash or bank deposits or fixed assets or in any other form and taking measures for its seizure. It will be necessary to collect evidence to link the money or the assets to the accused. It is in this area that painstaking enquiries are required. The first action to be taken on the information should be to safeguard the property or the assets movable or immovable either by having the bank account frozen or seizing the

property or entrusting the property to the concerned Revenue authorities under the provisions of section 452 Cr.P.C. After this action is taken it would be necessary to collect evidence so that its forfeiture and confiscation can be done. In the event of the assets being in another jurisdiction within India the help of concerned police should be taken in the manner provided in Cr.PC. An IO has powers to search and seize the property concerned in a case anywhere in the country. It is advisable however to take the assistance of the local police at a proper level. If the property or money is abroad, the investigative assistance may be requested under 166-A Cr. PC. Similar assistance to other countries is permissible in the manner provided in 166-B. The instructions on obtaining the documentary evidence are given in Chapter 24 and also in sections 105 A to 105 L of Chapter 7-A of Cr. PC.

Economic Offences :

The Supreme Court while hearing a bail application of a high-profile white collar offender commented thus.... "The entire community is aggrieved, if the economic offenders who ruin the economy of the state are not brought to book. An economic offence is committed with cool calculations and deliberate design with an eye on personal profit regardless of the consequences to the community. Political leaders indulging in self-aggrandisement by utilizing Government property or in distribution of the largesse of the Government to their own favourites or for certain *"quid pro quo"* are on the increase".

Courts should be cautious while granting bail to such offenders.

Computers – preservation of information :

9. The economic offences involve a multitude of transactions and entries and vast volume of information. The IO is advised to prepare a chart and load the information in a computer system to enable analysis and comparison as also not to miss out any important aspect. If for any reason, a computer system cannot be used, this may be done manually.

10. The Investigating Officers have to remember that a computer is on the same footing as a document and as such will prove a useful and necessary piece of evidence. The matter entered in a computer whether on magnetic media like hard discs, tapes, floppy discs or optical media like compact discs, whether audio or video, come within the meaning of a document as defined in the Indian Evidence Act. In preserving them as evidence or producing them the procedure laid down in the law for search, seizure, forwarding should be followed as in the case of any other document or material object. The handling, preservation and comparison of these require special precautions, which are dealt in the Order 526 next.

526 : Cyber Crime - Investigation - Methodology

(u/s 45-A, IEA, Opinion of Examiner of Electronic Evidence is relevant)

Contents of Cyber Crime (PSO 526, 527,528)

1. Cyber Crime perspective.
2. Cyber Crimes, Forensics and the Law
3. Typical Cyber Crimes
4. Extract of IT amendment Act 2008
5. Principles of Electronic evidence
6. Cyber Crimes Mapping with ITAA 2008, IPC and Special and Local Laws
7. Pre-Investigation Technical assessment to determine the Impact and Scope of the offence/incident.
8. Steps in Crime Scene Investigation.
9. Collection of Digital evidence – Procedure for gathering evidences from switched-off systems.
10. Some of the ways for acquiring data in a forensically sound manner from different devices.
11. Some Tools used in Cyber Forensics
12. Standard Operating Procedure for Investigation of Cyber Crime.
13. SOP - Obscene, Fake profile of a Female on a social networking site.
14. Nigerian fraud – Salient features and Modus Operandi.

Cyber Crime Perspective

Information Technology and the Internet have led to innovation and economic growth, but have also created new avenues for malicious actors to perpetrate crimes. The perpetrators range from sophisticated hackers to common criminals to foreign intelligence agencies and international terrorists. Cyber threats are increasing for governments, commercial enterprises and industry and to ordinary citizens.

The all-pervasive role of internet and computers and the networks can be gauged from the glance of a newspaper on any given day, on the lives of the citizens, corporations and governments world over. Number of lottery scams, fake profiles on social networking websites and, identity theft for fake banking transactions etc., have become news of daily routine and, are affecting increasing number of ordinary citizens. Commercial enterprises are becoming targets of frauds by insiders, commercial espionage and, intellectual property thefts causing

enormous damages to reputations of the companies and, potentially huge financial losses. Finally, the threats of cyber terrorism and, espionage are closer to reality than were anytime in the past. The Wiki leaks episode of publishing of the classified diplomatic communications in public domain is a pointer to the things to come in future. Governments and regimes are being overthrown, through the sheer power of internet and social networks, as a galvanizing force. While some of these acts may not be classified as Cyber Crimes universally, as Law Enforcement Officers, it becomes necessary to understand and investigate the incidents as and when reported.

Thus, Cyber Crime is the latest that is affecting the cyberspace and through it causing physical crimes in the real world, where either the computer is an object or subject of the conduct constituting crime. One way of defining cybercrime is: any criminal activity that uses a computer either as an instrument, target, or a means for perpetuating further crimes comes within the ambit of cybercrime, i.e., unlawful acts wherein the computer is either a tool/medium or a target or both.

Why Digital Investigation Lab in Cyber Crime PS?

During the traditional crime investigation, forensic process comes at a later stage in the course of investigation whereas in case of Cyber Crimes / Cyber related crimes, investigation starts with the forensic process, such as Network Forensics, Onsite Forensics, Disk Forensics and Video Forensics. In these circumstances, there is imminent need for Digital Investigation Lab for identifying the criminal, based on technical clues.

Why Experts?

For activities such as online information gathering, Network Forensics, Mobile tracking, e-mail tracking, Social media analysis and link analysis, regular police officers do not possess the required expertise. Hence, the outsourced specialists with the latest technology know-how, are handy for complex investigation.

Wide Area Network (WAN) is a network that covers a broad area (i.e., any telecommunications network that links across metropolitan, regional, national or international boundaries) using leased telecommunication lines. Business and government entities use WANs to relay data among employees, clients, buyers, and suppliers from various geographical locations. In essence, this mode of telecommunication allows a business to effectively carry out its daily function regardless of location. The Internet can be considered a WAN as well, and is used by businesses, governments, organizations, and individuals for almost any purpose imaginable

Local area network (LAN) is a computer network that interconnects computers within a limited area such as a home, school, computer laboratory, or office building, using network media. The defining characteristics of LANs, in contrast to wide area networks (WANs), include their smaller geographic area, and non-inclusion of leased telecommunication lines.

Personal area network (PAN) is a computer network used for data transmission among devices such as computers, telephones and personal digital assistants. PANs can be used for communication among the personal devices themselves (intrapersonal communication), or for connecting to a higher level network and the Internet (an uplink).

Wireless personal area network (WPAN) is a personal area network - a network for interconnecting devices centred on an individual person's workspace - in which the connections are wireless. Wireless PAN is based on the standard IEEE 802.15. The two kinds of wireless technologies used for WPAN are Bluetooth and Infrared Data Association.

WPAN could serve to interconnect all the ordinary computing and communicating devices that many people have on their desk or carry with them today; or it could serve a more specialized purpose such as allowing the surgeon and other team members to communicate during an operation.

A key concept in WPAN technology is known as "plugging in". In the ideal scenario, when any two WPAN-equipped devices come into close proximity (within several meters of each other) or within a few kilo meters of a central server, they can communicate as if connected by a cable. Another important feature is the ability of each device to lock out other devices selectively, preventing needless interference or unauthorized access to information.

Bluetooth :

Bluetooth uses short-range radio waves over distances up to approximately 10 meters. For example, Bluetooth devices such as a keyboards, pointing devices, audio headsets, printers may connect to personal digital assistants (PDAs), cell phones, or computers wirelessly.

A Bluetooth PAN is also called a *piconet* (combination of the prefix "pico," meaning very small or one trillionth, and network), and is composed of up to 8 active devices in a master-slave relationship (a very large number of devices can be connected in "parked" mode). The first Bluetooth device in the piconet is the master, and all other

devices are slaves that communicate with the master. A piconet typically has a range of 10 meters (33 ft), although ranges of up to 100 meters (330 ft) can be reached under ideal circumstances.

Infrared Data Association :

Infrared Data Association (IrDA) uses infrared light, which has a frequency below the human eye's sensitivity. Infrared in general is used, for instance, in TV remotes. Typical WPAN devices that use IrDA include printers, keyboards, and other serial data interfaces.

Cloud Computing :

Cloud computing basically refers to a network service that we can interact with over the network; this usually means that all the work is done by a server somewhere on the Internet, which might be backed up by physical or virtual hardware. In recent years, there has been a significant increase on the use of virtualized environments, which makes it very probable that our cloud service is running somewhere in a virtualized environment. There are many benefits of virtualized servers. Simply put, cloud computing provides a variety of computing resources , from servers and storage to enterprise applications such as e-mail, security, backup/DR, voice, all delivered over the Internet. The Cloud delivers a hosting environment that is immediate, flexible, scalable, secure, and available – while saving corporations money, time and resources.

Cloud Flavors :

1. SaaS is a software delivery methodology that provides licensed multi-tenant access to software and its functions remotely as a Web-based service.
2. IaaS is the delivery of technology infrastructure as an on demand scalable service Traditional managed hosting is a form of web hosting where a user chooses to lease entire server(s) housed in an off-site data center.
3. PaaS provides all of the facilities required to support the complete life cycle of building and delivering web applications and services entirely from the Internet. Desktop as a service—We are connecting to a desktop operating system over the Internet, which enables us to use it from anywhere. It is also not affected if our own physical laptop gets stolen, because we can still use it.

4. Storage as a service—We are using storage that physically exists on the Internet as it is present locally. This is very often used in cloud computing and is the primary basis of a NAS (Network Attached Storage) system.
5. Database as a service—Here we are using a database service installed in the cloud as if it was installed locally. One great benefit of using database as a service is that we can use highly configurable and scalable databases with ease.
6. Information as a service—We can access any data in the cloud by using the defined API as if it was present locally.
7. Security as a service—This enables the use of security services as if they were implemented locally.

Deployment Models

Public cloud

Public cloud (off-site and remote) describes cloud computing where resources are dynamically provisioned on an on-demand, self-service basis over the Internet, via web applications/web services, open API, from a third-party provider who bills on a utility computing basis.

Private cloud

A private cloud environment is often the first step for a corporation prior to adopting a public cloud initiative. Corporations have discovered the benefits of consolidating shared services on virtualized hardware deployed from a primary datacenter to serve local and remote users.

Hybrid cloud

A hybrid cloud environment consists of some portion of computing resources on-site (on premise) and off-site (public cloud). By integrating public cloud services, users can leverage cloud solutions for specific functions that are too costly to maintain on premise such as virtual server disaster recovery, backups and test/development environments.

Community cloud

A community cloud is formed when several organizations with similar requirements share common infrastructure. Costs are spread over fewer users than a public cloud but more than a single tenant.

Two most distinct disadvantages are definitely security and privacy. Since we store all data in our cloud somewhere on the Internet, the cloud provider has access to our data, and so does an attacker if a breach occurs in the provider's network.

526-1: CYBER CRIMES, FORENSICS AND THE LAW

Cyber Crimes are committed using various tools and techniques and, the following brief description gives an idea of the types and range of tools that are used by the criminals in the cyber space. Many of the tools used in commission of the cybercrimes are installed on the victim's systems through - exploitation of the vulnerabilities in the systems / networks or by surreptiously gaining access to the victim's systems which may include physical access or by making use of the intermediary systems or by deceiving the victim to allow access to his system or by gathering the victim information.

Buffer overflow

The condition wherein the data transferred to a buffer exceeds the storage capacity of the buffer and some of the data "overflows" into another buffer, one that the data was not intended to go into.

Cracker

Is a cyber-burglar or vandal, an individual or group intent on causing malicious harm to a network or computer ?

Data Didling

Involves altering the raw data just before a computer processes it and then changing it back after processing is completed.

Malware :

A program that is inserted into a system, usually covertly, with the intent of compromising the confidentiality, integrity, or availability of the victim's data, applications, or operating system or of otherwise annoying or disrupting the victim.

Phishing :

Using spoof e-mails or directing the people to fake web sites to fool them into divulging personal financial details so that criminals can access their accounts.

Root kit :

A set of tools used by an attacker after gaining root-level access to a host to conceal the attacker's activities on the host and permit the attacker to maintain root-level access to the host through covert means.

Salam Attack :

This attack involves making alteration so insignificant that in a single case it would go completely unnoticed. Attacks are used for commission of financial crimes.

Sniffer :

A program and/or device that monitors data travelling over a network. Sniffers can be used both for legitimate network management functions and for stealing information off a network. Unauthorized sniffers can be extremely dangerous to a network's security because they are virtually impossible to detect and can be inserted almost anywhere.

Social engineering :

A hacker term for deceiving or manipulating unwitting people into giving out information about a network or how to access it.

Spoofing :

Refers to sending information that appears to come from a source other than its actual source.

Spyware :

Software that is secretly or surreptitiously installed into an information system to gather information on individuals or organisations without their knowledge; a type of malicious code.

Steganography :

The art and science of communicating in a way that hides the existence of the communication. An image file may contain hidden messages between terror groups, which will be known only to the intended recipient and the sender.

Trojan :

A non-self-replicating program that seems to have a useful purpose, but in reality has a different, malicious purpose.

Virus :

A self-replicating program that runs and spreads by modifying other programs or files.

Worm :

A self-replicating, self-propagating, self-contained program that uses networking mechanisms to spread itself.

Zombie :

A program that is installed on a system to cause it to attack other systems.

Hacking is a broader term and can be defined as gaining entry into a computer system without the permission with an intention to cause loss, steal, or destroy the data contained in it. It is often done by

people who are well versed with computer technologies by exploiting some of the vulnerabilities that are present in the computer system. This involves various methods of acquiring sensitive information like user names, passwords, Internet Protocol (IP) addresses and using them to access the computer system.

Hackers use various applications or programs that can penetrate the defence mechanisms employed by the target computer system and send back the critical information like computer configuration, user names, IP addresses, MAC addresses, etc., which can be used by the hacker to gain entry into the system itself. These applications may be in the form of Trojans, malware, worms, and viruses, which will install in the targeted system and compromise its security. After hacking and gaining entry into the computer system, the hacker can gain administrative rights and can do anything with the data contained in it. The computer systems can also be used to infect and destroy other systems.

Types of Cyber Crimes :

Section 66 of the ITAA 2008 deals with the penal provisions for committing any of the acts defined under Section 43 of the ITAA 2008, if the acts were done with fraudulent or dishonest intentions.

The crimes dealt under this section (66), thus presuppose that, all these acts were done with dishonest and fraudulent intentions. If the fraudulent or dishonest intentions are not forthcoming, they will be dealt under Section 43 of the IT Act and, will be dealt with by the Adjudicating Officers notified under Section 46 of the IT Act, 2000.

526-2 .TYPICAL CYBER CRIMES

Online lottery frauds / online job frauds

In this type of offence, innocent people are contacted by the fraudster through both SMS and e-mail communication stating that they have won huge amount in lottery or got lucrative job offer. Slowly, in the name of customs, anti-terrorism, conversion, NOC, VISA processing, etc., incremental money will be asked to be deposited in bank accounts which are created with fake credentials. Mostly people from foreign origin (like Nigerians) are indulging in such offences. The money lost by the victims is runs into crores of rupees. On the same analogy people are being targeted and cheated in the names of jobs abroad.

Online harassment :

Of late, there has been an increase in this type of offences and the victims are mostly female. The cyber criminal uses mobiles, emails and social networking sites to harass the victims creating fake identities, posting derogatory, obscene and private content, causing mental agony, and affecting family relations, leading to divorces and break-up of engagements.

Online cheatings :

Criminals are using matrimonial sites and other advertisement sites with false content to lure innocent victims again mostly female, thereby cheating them for wrongful gain and blackmailing. In another type of offence, profile of divorced women is collected by these habitual offenders who lay a trap and convince them that they will marry them and take undue advantage of their situation through physical exploitation and cheating them financially.

Fake online appointments in reputed multi-national companies :

For such offences, cyber criminals access the details of people whose resume is posted on different online job portals with their personal details. Using those details, the cyber criminals contact them and offer jobs and collect money in the name of processing fee, etc., for wrongful gain.

Phishing frauds :

In this line, cyber criminals contacts netizens in the guise of popular banks, Income Tax Department, Webmail service providers, such as Gmail, Yahoo Mail, etc., and send messages asking the targets to part with their security credentials such as Username, password, account information, date of birth, etc., so that they can hack into those accounts for wrongful gain.

ATM, Debit and Credit card frauds :

These are all possible both online, by collecting the PIN numbers, CVV numbers, and offline, by cloning the card.

Hacking cases :

The term Hacking has broad connotation, but in Cyber parlance it means unauthorized access. There are several ways and means used by these fraudsters to compromise computer security, bank accounts, mail accounts, websites and web servers for defamation, wrongful gain, cheating, stealing of personal data. In hacking cases, targets could be individuals, companies, nations or critical infrastructure.

Publishing of obscene content :

This is also one type of online harassment, wherein victims, share their intimate pictures, videos with people who manage to come very close to them and, at a later time, if some issues arise between them, the victims are targeted by publishing their personal/ private videos, in the net.

Cyber terrorism :

The most deadly and destructive form of cyber crime is "cyber terrorism". The traditional concepts and methods of terrorism have acquired new dimension. In the age of information technology, terrorists have acquired expertise in producing the most deadly combination of weapons and technology, which, if not properly checked without delay, will take a heavy toll on the society. The damage, so occurred would be almost irreversible and most catastrophic, in nature. In short, we are facing the worst form of terrorism, popularly known as "Cyber Terrorism". The expression "cyber terrorism" includes an intentional negative and harmful use of the information technology which has both national and international ramification on the economic, industrial and strategic fronts.

527.1. Extract of Information Technology Amendment Act, 2008

Preliminary :

(1) This Act may be called the Information Technology Act, 2000. [As amended by Information Technology (Amendment) Act, 2006 and Information technology (Amendment) Act 2008]

P.S: Information Technology (Amendment) Act 2006 is now renamed as Information Technology (Amendment) Act 2008 herein after referred to as ITAA 2008

Definitions

(1) In this Act, unless the context otherwise requires,

(a) "Access" with its grammatical variations and cognate expressions means gaining entry into, instructing or communicating with the logical, arithmetical, or memory function resources of a computer, computer system or computer network;

(b) "Addressee" means a person who is intended by the originator to receive the electronic record but does not include any intermediary;

(c) Adjudicating Officer" means adjudicating officer appointed under subsection (1) of section 46;

(d) "Affixing Electronic Signature" with its grammatical variations and cognate expressions means adoption of any methodology or procedure

by a person for the purpose of authenticating an electronic record by means of Electronic Signature.

(e) "Appropriate Government" means as respects any matter.

(i) enumerated in List II of the Seventh Schedule to the Constitution;

(ii) relating to any State law enacted under List III of the Seventh Schedule to the Constitution, the State Government and in any other case, the Central Government;

(f) "Asymmetric Crypto System" means a system of a secure key pair consisting of a private key for creating a digital signature and a public key to verify the digital signature;

(g) "Certifying Authority" means a person who has been granted a licence to issue a Electronic Signature Certificate under section 24;

(h) "Certification Practice Statement" means a statement issued by a Certifying Authority to specify the practices that the Certifying Authority employs in issuing Electronic Signature Certificates;

(ha) "communication Device" means cell phones, personal digital assistance, or combination of both or any other device used to communicate, send or transmit any text, video, audio, or image. (Inserted vide ITAA 2008)

(i) "Computer" means any electronic, magnetic, optical or other high-speed data processing device or system which performs logical, arithmetic, and memory functions by manipulations of electronic, magnetic or optical impulses, and includes all input, output, processing, storage, computer software, or communication facilities which are connected or related to the computer in a computer system or computer network;

(j) "Computer Network" means the inter connection of one or more computers or computer systems or Communication device through-

(i) the use of satellite, microwave, terrestrial line, wire, wireless or other communication media; and

(ii) terminals or a complex consisting of two or more inter connected computers or communication device whether or not the interconnection is continuously maintained;

(k) "Computer Resource" means computer, communication device, computer system, computer network, data, computer database or software;

(l) "Computer System" means a device or collection of devices, including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, which contain computer programmes, electronic instructions, input data, and output data, that performs logic, arithmetic, data storage and retrieval, communication control and other functions;

(m) "Controller" means the Controller of Certifying Authorities appointed under sub-section (7) of section 17;

(n) "Cyber Appellate Tribunal" means the Cyber Appellate Tribunal established under sub-section (1) of section 48;

(na) "Cyber cafe" means any facility from where access to the internet is offered by any person in the ordinary course of business to the members of the public.

(nb) "Cyber Security" means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorized access, use, disclosure, disruption, modification or destruction.

(o) "Data" means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer;

(p) "Digital Signature" means authentication of any electronic record by a subscriber by means of an electronic method or procedure in accordance with the provisions of section 3;

(q) "Digital Signature Certificate" means a Digital Signature Certificate issued under sub-section (4) of section 35;

(r) "Electronic Form" with reference to information means any information generated, sent, received or stored in media, magnetic, optical, computer memory, micro film, computer generated micro fiche or similar device;

(s) "Electronic Gazette" means official Gazette published in the electronic form;

(t) "Electronic Record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche;

(ta) "electronic signature" means authentication of any electronic record by a subscriber by means of the electronic technique specified in the second schedule and includes digital signature

(tb) "Electronic Signature Certificate" means an Electronic Signature Certificate issued under section 35 and includes Digital Signature Certificate"

(u) "Function", in relation to a computer, includes logic, control, arithmetical process, deletion, storage and retrieval and communication or telecommunication from or within a computer;

(ua) "Indian Computer Emergency Response team" means an agency established under sub-section (1) of section 70 B

(v) "Information" includes data, message, text, images, sound, voice, codes, computer programmes, software and databases or micro film or computer generated micro fiche;

(w) "Intermediary" with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, web hosting service providers, search engineers, online payment sites, online-auction sites, online market places and cyber cafes.

Sec.43: Penalty and Compensation for damage to computer, computer system, etc.

If any person without permission of the owner or any other person who is in-charge of a computer, computer system or computer network

(a) accesses or secures access to such computer, computer system or computer network or computer resource

(b) downloads, copies or extracts any data, computer data base or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium;

(c) introducer causes to be introduced any computer contaminant or computer virus into any computer, computer system or computer network;

(d) damages or causes to be damaged any computer, computer system or computer network, data, computer data base or any other programmes residing in such computer, computer system or computer network;

(e) disrupts or causes disruption of any computer, computer system or computer network;

(f) denies or causes the denial of access to any person authorised to access any computer, computer system or computer network by any means;

(g) provides any assistance to any person to facilitate access to a computer, computer system or computer network in contravention of the provisions of this Act, rules or regulations made there under,

(h) charges the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system, or computer network,

(i) destroys, deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means

(j) Steals, conceals, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used for a computer resource with an intention to cause damage, he shall be liable to pay damages by way of compensation to the person so affected.

Explanation - for the purposes of this section -

(i) "Computer Contaminant" means any set of computer instructions that are designed -

(a) to modify, destroy, record, transmit data or programme residing within a computer, computer system or computer network; or

(b) by any means to usurp the normal operation of the computer, computer system, or computer network;

(ii) "Computer Database" means a representation of information, knowledge, facts, concepts or instructions in text, image, audio, video that are being prepared or have been prepared in a formalised manner or have been produced by a computer, computer system or computer network and are intended for use in a computer, computer system or computer network;

(iii) "Computer Virus" means any computer instruction, information, data or programme that destroys, damages, degrades or adversely affects the performance of a computer resource or attaches itself to another computer resource and operates when a programme, data or instruction is executed or some other event takes place in that computer resource;

(iv) "Damage" means to destroy, alter, delete, add, modify or re-arrange any computer resource by any means.

(v) "Computer Source code" means the listing of programmes, computer commands, design and layout and programme analysis of computer resource in any form

Sec.43 A: Compensation for failure to protect data :

Where a body corporate, possessing, dealing or handling any sensitive personal data or information in a computer resource which it owns, controls or operates, is negligent in implementing and maintaining reasonable security practices and procedures and thereby causes wrongful loss or wrongful gain to any person, such body corporate shall be liable to pay damages by way of compensation, to the person so affected.

Explanation: For the purposes of this section

(i) "body corporate" means any company and includes a firm, sole proprietorship or other association of individuals engaged in commercial or professional activities

(ii) "reasonable security practices and procedures" means security practices and procedures designed to protect such information from unauthorised access, damage, use, modification, disclosure or impairment, as may be specified in an agreement between the parties or as may be specified in any law for the time being in force and in the absence of such agreement or any law, such reasonable security practices and procedures, as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.

(iii) "sensitive personal data or information" means such personal information as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.

Sec.65:Tampering with Computer Source Documents :

Whoever knowingly or intentionally conceals, destroys or alters or intentionally or knowingly causes another to conceal, destroy or alter any computer source code used for a computer, computer program, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time being in force, shall be punishable with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

Explanation: -

For the purposes of this section, "Computer Source Code" means the listing of programmes, Computer Commands, Design and layout and programme analysis of computer resource in any form.

Sec.66: Computer Related Offences : If any person, dishonestly, or fraudulently, does any act referred to in section 43, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five lakh rupees or with both.

Explanation: For the purpose of this section,-

a) The word "dishonestly" shall have the meaning assigned to it in section 24 of the Indian Penal Code;

b) The word "fraudulently" shall have the meaning assigned to it in section 25 of the Indian Penal Code.

Sec.66A : Punishment for sending offensive messages through communication service, etc.

Hon'ble Supreme Court of India struck down Sec 66A of IT Act in WP 167/2012 dt. 24-3-2015 (Shreya Singhal vs. State of Maharashtra).

Any person who sends, by means of a computer resource or a communication device,-

a) any content information that is grossly offensive or has menacing character; or

b) any content information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, or ill will, persistently makes by making use of such computer resource or a communication device,

c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages shall be punishable with imprisonment for a term which may extend to three years and with fine.

Explanation:- For the purposes of this section, the term "communication device" means cell phones, personal digital assistance (PDA) or combination of both or any other device used to communicate, send or transmit any text, video, audio or image.

Explanation: For the purposes of this section, terms "Electronic mail" and "Electronic Mail Message" means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which.

Sec.66B: Punishment for dishonestly receiving stolen computer resource or communication device.

Whoever dishonestly receives or retains any stolen computer resource or communication device knowing or having reason to believe the same to be stolen computer resource or communication device, shall be punished with imprisonment of either description for a term which may extend to three years or with fine which may extend to rupees one lakh or with both.

Sec.66C: Punishment for identity theft.

Whoever, fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other person, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to rupees one lakh.

Sec.66D: Punishment for cheating by personation by using computer resource.

Whoever, by means of any communication device or computer resource cheats by personation, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupees.

Sec.**66 E: Punishment for violation of privacy**.

Whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person, shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both

Explanation.- For the purposes of this section—

(a) "Transmit" means to electronically send a visual image with the intent that it be viewed by a person or persons;

(b) "Capture", with respect to an image, means to videotape, photograph, film or record by any means;

(c) "Private area" means the naked or undergarment clad genitals, pubic area, buttocks or female breast;

(d) "Publishes" means reproduction in the printed or electronic form and making it available for public;

(e) "Under circumstances violating privacy" means circumstances in which a person can have a reasonable expectation that—

(i) He or she could disrobe in privacy, without being concerned that an image of his private area was being captured; or

(ii) Any part of his or her private area would not be visible to the public, regardless of whether that person is in a public or private place.

Sec.**66 F: Punishment for cyber terrorism**

(1) Whoever,-

(A) With intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people by –

(i) Denying or cause the denial of access to any person authorised to access computer resource; or

(ii) Attempting to penetrate or access a computer resource without authorisation or exceeding authorised access; or

(iii) Introducing or causing to introduce any Computer Contaminant, and by means of such conduct causes or is likely to cause death or injuries to persons or damage to or destruction of property or disrupts or knowing that it is likely to cause damage or disruption of supplies or services essential to the life of the community or adversely affect the critical information infrastructure specified under section 70, or

(B) knowingly or intentionally penetrates or accesses a computer resource without authorisation or exceeding authorised access, and by means of such conduct obtains access to information, data or computer database that is restricted for reasons of the security of the State or foreign relations; or any restricted information, data or computer database, with reasons to believe that such information, data or computer database so obtained may be used to cause or likely to cause injury to the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence, or to the advantage of any foreign nation, group of individuals or otherwise, commits the offence of cyber terrorism.

(2) Whoever, commits or conspires to commit cyber terrorism shall be punishable with imprisonment which may extend to imprisonment for life.

Sec.**67 :Punishment for publishing or transmitting obscene material in electronic form**

Whoever, publishes or transmits or causes to be published in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to two three years and with fine which may extend to five lakh rupees and in the event of a second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees.

Sec.**67 A: Punishment for publishing or transmitting of material containing sexually explicit act etc. in electronic form:**

Whoever, publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees.

Exception: This section and section 67 does not extend to any book, pamphlet, paper, writing, drawing, painting, representation or figure in electronic form-

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting, representation or figure is in the interest of science, literature, art, or learning or other objects of general concern; or

(ii) Which is kept or used bona fide for religious purposes?

Sec.**67 B: Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc. in electronic form.**

Whoever,-

(a) Publishes or transmits or causes to be published or transmitted material in any electronic form which depicts children engaged in sexually explicit act or conduct or

(b) creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually explicit manner or

(c) Cultivates, entices or induces children to online relationship with one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource or

(d) Facilitates abusing children online or

(e) Records in any electronic form own abuse or that of others pertaining to sexually explicit act with children, shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with a fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees: Provided that the provisions of section 67, Section 67A and this section does not extend to any book, pamphlet, paper, writing, drawing, painting, representation or figure in electronic form-

(i) The publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper writing, drawing, painting, representation or figure is in the interest of science, literature, art or learning or other objects of general concern; or

(ii) Which is kept or used for bonafide heritage or religious purposes

Explanation: For the purposes of this section, "children" means a person who has not completed the age of 18 years.

Sec.67C : "Preservation and Retention of information by intermediaries"

(1) Intermediary shall preserve and retain such information as may be specified for such duration and in such manner and format as the Central Government may prescribe.

(2) Any intermediary who intentionally or knowingly contravenes the provisions of sub section (1) shall be punished with an imprisonment for a term which may extend to three years and shall also be liable to fine.

Sec.68: Power of Controller to give directions

(1) The Controller may, by order, direct a Certifying Authority or any employee of such Authority to take such measures or cease carrying on such activities as specified in the order if those are necessary to

ensure compliance with the provisions of this Act, rules or any regulations made there under.

(2) Any person who intentionally or knowingly fails to comply with any order under sub-section (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding one lakh rupees or to both.

Sec.69: Powers to issue directions for interception or monitoring or decryption of any information through any computer resource

(1) Where the central Government or a State Government or any of its officer specially authorised by the Central Government or the State Government, as the case may be, in this behalf may, if is satisfied that it is necessary or expedient to do in the interest of the sovereignty or integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above or for investigation of any offence, it may, subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the appropriate Government to intercept, monitor or decrypt or cause to be intercepted or monitored or decrypted any information transmitted received or stored through any computer resource.

(2) The Central Government shall prescribe safeguards subject to which such interception or monitoring or decryption may be made or done, as the case may be.

The Procedure and safeguards subject to which such interception or monitoring or decryption may be carried out, shall be such as may be prescribed

(3) The subscriber or intermediary or any person in charge of the computer resource shall, when called upon by any agency which has been directed under sub section (1), extend all facilities and technical assistance to -

(a) Provide access to or secure access to the computer resource containing such information; generating, transmitting, receiving or storing such information; or

(b) Intercept or monitor or decrypt the information, as the case may be; or

(c) Provide information contained / stored in computer resource.

(4) The subscriber or intermediary or any person who fails to assist the agency referred to in sub-section (3) shall be punished with an

imprisonment for a term which may extend to seven years and shall also be liable to fine.

Sec.69 A : Power to issue directions for blocking for public access of any information through any computer resource

(1) Where the Central Government or any of its officer specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign states or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may subject to the provisions of sub-section (2) for reasons to be recorded in writing, by order direct any agency of the Government or intermediary to block access by the public or cause to be blocked for access by public any information generated, transmitted, received, stored or hosted in any computer resource.

(2) The procedure and safeguards subject to which such blocking for access by the public may be carried out shall be such as may be prescribed.

(3) The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years and also be liable to fine.

Sec.69B: Power to authorize to monitor and collect traffic data or information through any computer resource for Cyber Security

(1) The Central Government may, to enhance Cyber Security and for identification, analysis and prevention of any intrusion or spread of computer contaminant in the country, by notification in the official Gazette, authorize any agency of the Government to monitor and collect traffic data or information generated, transmitted, received or stored in any computer resource.

(2) The Intermediary or any person in-charge of the Computer resource shall when called upon by the agency which has been authorised under sub-section (1), provide technical assistance and extend all facilities to such agency to enable online access or to secure and provide online access to the computer resource generating, transmitting, receiving or storing such traffic data or information.

(3) The procedure and safeguards for monitoring and collecting traffic data or information, shall be such as may be prescribed.

(4) Any intermediary who intentionally or knowingly contravenes the provisions of sub-section (2) shall be punished with an imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation: For the purposes of this section,

(i) "Computer Contaminant" shall have the meaning assigned to it in section 43

(ii) "traffic data" means any data identifying or purporting to identify any person, computer system or computer network or location to or from which the communication is or may be transmitted and includes communications origin, destination, route, time, date, size, duration or type of underlying service or any other information.

Sec.70: Protected systems

(1) The appropriate Government may, by notification in the Official Gazette, declare any computer resource which directly or indirectly affects the facility of Critical Information Infrastructure, to be a protected system.

Explanation: For the purposes of this section, "Critical Information Infrastructure" means the computer resource, the incapacitation or destruction of which, shall have debilitating impact on national security, economy, public health or safety.

(2) The appropriate Government may, by order in writing, authorise the persons who are authorised to access protected systems notified under sub-section (1)

(3) Any person who secures access or attempts to secure access to a protected system in contravention of the provisions of this section shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

(4) The Central Government shall prescribe the information security practices and procedures for such protected system.

70 A Indian Computer Emergency Response Team to serve as National nodal agency.

(1) The Indian Computer Emergency Response Team (CERT-In) shall serve as the nodal agency in respect of Critical Information Infrastructure for coordinating all actions relating to information security practices, procedures, guidelines, incident prevention, response and report.

The Central Government may, by notification published in the official Gazette, designate any organization of the Government as the national nodal agency in respect of Critical Information Infrastructure Protection.

(2) For the purposes of sub-section (1), the Director of the Indian Computer Emergency Response Team may call for Information pertaining to Cyber Security from the service providers, intermediaries or any other person.

The national nodal agency designated under sub-section (1) shall be responsible for all measures including Research and Development relating to protection of Critical Information Infrastructure.

(3) Any person who fails to supply the information called for under sub-section (2) shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both.

The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

(4) The Director of the Indian Computer Emergency Response Team may, by order, delegate his powers under this section to his one or more subordinate officers not below the rank of Deputy Secretary to the Government of India.

70 B Indian Computer Emergency Response Team to serve as national agency for incident response

(1) The Central Government shall, by notification in the Official Gazette, appoint an agency of the government to be called the Indian Computer Emergency Response Team.

(2) The Central Government shall provide the agency referred to in sub-section (1) with a Director General and such other officers and employees as may be prescribed.

(3) The salary and allowances and terms and conditions of the Director General and other officers and employees shall be such as may be prescribed.

(4) The Indian Computer Emergency Response Team shall serve as the national agency for performing the following functions in the area of Cyber Security,-

(a) Collection, analysis and dissemination of information on cyber incidents

(b) Forecast and alerts of cyber security incidents

(c) Emergency measures for handling cyber security incidents

(d) Coordination of cyber incidents response activities

(e) Issue guidelines, advisories, vulnerability notes and white papers relating to information security practices, procedures, prevention, response and reporting of cyber incidents

(f) Such other functions relating to cyber security as may be prescribed

(5) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

(6) For carrying out the provisions of sub-section (4), the agency referred to in sub-section (1) may call for information and give direction to the service providers, intermediaries, data centres, body corporate and any other person

(7) Any service provider, intermediaries, data centres, body corporate or person who fails to provide the information called for or comply with the direction under sub-section (6), shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both.

(8) No Court shall take cognizance of any offence under this section, except on a complaint made by an officer authorised in this behalf by the agency referred to in sub-section (1) Penalty for publishing electronic Signature Certificate false in certain particulars

(1) No person shall publish a Electronic Signature Certificate or otherwise make it available to any other person with the knowledge that

(a) the Certifying Authority listed in the certificate has not issued it; or

(b) the subscriber listed in the certificate has not accepted it; or

(c) the certificate has been revoked or suspended, unless such publication is for the purpose of verifying a digital signature created prior to such suspension or revocation

(2) Any person who contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

Sec.**74 : Publication for fraudulent purpose**

Whoever, knowingly creates, publishes or otherwise makes available an Electronic Signature Certificate for any fraudulent or unlawful purpose shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both. Act to apply for offence or contraventions committed outside India

(1) Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person irrespective of his nationality.

(2) For the purposes of sub-section (1), this Act shall apply to an offence or contravention committed outside India by any person if the act or conduct constituting the offence or contravention involves a computer, computer system or computer network located in India.

Sec.**76: Confiscations :**

Any computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, in respect of which any provision of this Act, rules, orders or regulations made thereunder has been or is being contravened, shall be liable to confiscation:

Provided that where it is established to the satisfaction of the court adjudicating the confiscation that the person in whose possession, power or control of any such computer, computer system, floppies, compact disks, tape drives or any other accessories relating thereto is found is not responsible for the contravention of the provisions of this Act, rules, orders or regulations made there under, the court may, instead of making an order for confiscation of such computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, make such other order authorised by this Act against the person contravening of the provisions of this Act, rules, orders or regulations made there under as it may think fit.

Compensation, penalties or confiscation not to interfere with other punishment.

No compensation awarded, penalty imposed or confiscation made under this Act shall prevent the award of compensation or imposition of any other penalty or punishment under any other law for the time being in force.

Sec.**77 A: Offences under sections 66, 66A, 72 and 72A to be compoundable**.

Compounding of Offences

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, offences under sections 66, 66A, 72 and 72 A may be compounded by the aggrieved person. Provided that the provisions of this section does not apply where the accused is, by reason of his previous conviction, liable to either enhanced punishment or to a punishment of a different kind for such offence.

A Court of competent jurisdiction may compound offences other than offences for which the punishment for life or imprisonment for a term exceeding three years has been provided under this Act.

Provided that the Court shall not compound such offence where the accused is by reason of his previous conviction, liable to either enhanced punishment or to a punishment of a different kind.

Provided further that the Court shall not compound any offence where such offence affects the socio-economic conditions of the country or has been committed against a child below the age of 18 years or a woman.

The person accused of an offence under this act may file an application for compounding in the court in which offence is pending for trial and the provisions of section 265 B and 265 C of Code of Criminal Procedures, 1973 shall apply.

Sec.77 B: Cognizance of offences under Sections 66, 66 A, 72 and Sec.72A

Offences with three years imprisonment to be cognizable.

No Court shall take cognizance of an offence punishable under sections 66, 66A, 72 and 72 A, except upon a complaint made by the person aggrieved by the offence.

(1) Notwithstanding anything contained in Criminal Procedure Code 1973, the offence punishable with imprisonment of three years and above shall be cognizable and the offence punishable with imprisonment of three years shall be bailable.

Sec.**78: Power to investigate offences :**

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Inspector of Police shall investigate any cognizable offence under this Act.

(2) When information is given to an officer-in-charge of a police station of the commission within the limits of such station of a non-cognizable offence under this act, he shall cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

(3) Any Police officer receiving such information may exercise the same powers in respect of investigation (except the power to arrest without warrant) as an officer-in-charge of the police station may exercise in a cognizable case under section 156 of the Code of Criminal Procedure, 1973.

Sec 80: Power of Police Officer and other officers to enter, search, etc.

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any police officer, not below the rank of an Inspector or any other officer of the Central Government or a State Government authorized by the Central Government in this behalf may enter any public place and search and arrest without warrant any person found therein who is reasonably suspected of having committed or of committing or of being about to commit any offence under this Act.

Explanation- (1) For the purposes of this sub-section, the expression "Public Place" includes any public conveyance, any hotel, any shop or any other place intended for use by, or accessible to the public.(2) Where any person is arrested under sub-section (1) by an officer other than a police officer, such officer shall, without unnecessary delay, take or send the person arrested before a magistrate having jurisdiction in the case or before the officer-in-charge of a police station.(3) The provisions of the Code of Criminal Procedure, 1973 shall, subject to the provisions of this section apply, so far as may be, in relation to any entry, search or arrest, made under this section.

Sec. **81: Act to have Overriding effect**

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Provided that nothing contained in this Act shall restrict any person from exercising any right conferred under the Copyright Act 1957 or the Patents Act 1970.

Sec. **84 B: Punishment for abetment of offences**

Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be punished with the punishment provided for the offence under this Act.

Explanation: An Act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Sec. **84C:Punishment for attempt to commit offences**

Whoever attempts to commit an offence punishable by this Act or causes such an offence to be committed, and in such an attempt does any act towards the commission of the offence, shall, where no express provision is made for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a

term which may extend to one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence or with both.

Indian Evidence Act :

Sec.**65A: Special provisions as to evidence relating to electronic record**

The contents of electronic records may be proved in accordance with the provisions of section 65B.

Sec.**65B: Admissibility of electronic records:**

(1) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following : -

(a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;

(c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and

(d) The information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether –

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say, -

(a) identifying the electronic record containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section, -

(a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(c) a computer output shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation: For the purposes of this section any reference to information being derived from other information shall be a reference to its being derived there from by calculation, comparison or any other process.

527.2 COMPUTER SYSTEMS :

A computer system usually consists of hardware and software that work together to process data.

And is made up of a number of components that are likely to include:

An external case that houses **circuit boards, microprocessors**, hard drives, **memory,** and connections for other devices.

a monitor or other display device.

a keyboard.

a mouse.

externally connected drives,

Devices.

Computer systems can come in many different forms; including desktops, laptops, tower computers, rack-mounted systems, mini computers, and main frame computers. Other devices that may connect to these systems include printers, scanners, routers, external hard drives and other storage devices, and docking stations that allow many connections to be made. Some of these are discussed further in this document.

Note: The definition of “computer system” and “computer data” in the Budapest Convention on Cybercrime: Article 1 Definitions

For the purposes of this convention :

a) “ computer system” means any device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data;

b) “ computer data” means any representation of facts, information or concepts in a form suitable for processing in a computer system,

including a program suitable to cause a computer system to perform a function;

This definition comprises tablets, smart phones and other devices described below.

Images of computer systems

Desktop / Tower [1] Laptop [2] Mainframe [3]

527.3. Tablet Devices

A tablet computer is a device that is operated by touching the screen rather than using a keyboard or mouse. It is normally larger than a mobile phone or **Personal Digital Assistant** (PDA).They come in many forms and sizes and usually have storage capability built in the form of hard disks or flash memory, although it is often the case that most of the information created is stored in the cloud. They have become very popular in recent years and may be useful sources of electronic evidence as they run their own operation systems and are often connected to the Internet via Wireless Local Area Network **(WLAN)**,Third Generation Mobile Telecommunications**(3G)**or Long Term Evolution**(LTE)**networks.

[4] [5] [6] [7]

Tablet Devices

527.4. Storage devices

Storage devices come in many shapes and sizes and in the manner in which they store and keep data. It is important that any person considering the evidential potential of these devices is aware of their existence and their capabilities. The following information provides details of some of these devices.

527.5. Hard disks and solid state disks

Hard drives are the major storage device within computer systems. They consist of a circuit board, data and power connections, along with internal magnetically charged, ceramic, metal or glass platters that store the data. It is not unusual to discover hard drives that are no connected to or installed in a computer system. Solid state disks (SSD)are becoming more popular and they store information in a different way than hard disks, while in tending to provide access in the same way as traditional hard disks. Where as hard disks store data on platters, solid state disks store data using micro chips that have no moving parts. As such they are less likely to be damaged by shock and they offer faster access to the data. These devices may hold valuable evidence.

Computer Hard Disk [8]

Computer Hard Disk Interior [9]

Solid State Disk [10]

527.6. Removable media

Compact Disk (CD), Digital Video Disk (DVD) and Blu-ray Disks(BD)are typically used for storage of large video or audio files and associated uses. They may however, hold large amounts of other data that may be of evidential value. Although they look very similar the storage capacities vary greatly.

Compact Disk (CD) [11]

Digital Video Disk (DVD) [12]

Blu-ray Disk (BD) [13]

527.7. Memory cards

Memory cards, also known as flash cards are devices for storing digital information. They are often used in many electronic devices

such as digital cameras, mobile phones, laptop computers, music players and games consoles. They are able to retain data without power and come in a variety of capacities, meaning they can store huge amounts of data while being easy to hide from view.

Secure Digital Card (SD) [14]

Micro SD Card and Adaptor [15]

Compact Flash Card (CF) [16]

527.8. USB data storage devices

Universal Serial Bus (USB) is a standard that defines the protocols for communication, connection and power supply for devices that are to be connected to computers. Since it's advent in the 1990s, the number of devices that are now capable of being connect educing this protocol has grown and new devices in all sorts of shapes and sizes are now used to store data. Some examples are given below of the usual types of devices that may be encountered by those attempting to identify sources of electronic evidence.

USB Ports on Computer [17]

USB Storage Devices [18 & 19]

USB Storage Devices [20 - 23]

Not all devices are what they seem. Here are just a few of the ways in which USB storage devices are represented. It is important for any one considering electronic evidence to be aware of the potential of evidence being present on all types of device.

USB Storage Devices [24 - 26]

USB Storage Devices [27 - 29]

527.9. Data storage tape disks

Data stored on tape is more likely to be encountered is a business rather than a domestic setting; although it is important that their existences known in all circumstances where electronic evidence is sought. The most common type used now is the Linear Tape-Open technology developed in the 1990s as an open standard. Tapes are normally used for back up and therefore, may be useful in cases where an historical analysis is required or where the original computer is not available.

Linear Tape-Open Storage [30 - 31]

LTO Tape Drive [32]

527.10. Peripheral devices

Peripherals are devices are not an integral part of the computer but connect to it to improve its capabilities. Examples of peripheral devices are: scanners, printers, tape drives, webcams, loudspeakers,

microphones, calculators, fax, answering machines and card readers. Many of these devices have their own data storage capacity and may be relevant to particular types of investigation, for example, the presence of a card reader may be relevant in a credit card cloning investigation. Images of just a few of these types of device are given below to assist the reader.

527.11. Mobile telephones

The time when a mobile phone was simply a device for making and receiving telephone calls over a wide geographic area are long past. Now a days, they are used for many other tasks, such as sending and receiving text or multimedia messages, Internet access and email, as well as communicating via **Bluetooth** and conducting business actives, engaging in games and photography. Many modern mobile phones are truly computers, although their connectivity requires them to be handled in a somewhat different manner than traditional computers. Visual representation of a few of the more common devices available are given below. It is important to note that different phones have varying capabilities and connection interfaces that are not common and often require specialist equipment to capture the information effectively while retaining the integrity of evidence.

Mobile Phones [39 - 41]

527.12. Photo and video recording Digital cameras

Digital cameras take still or video photographs and may store thousands of images on small memory devices, such as those detailed above under the "Memory Cards" heading, or using on board storage.

For those involved in investigations involving photos it may be possible to determine which camera was used to take a specific photograph. Most modern digital cameras also record sounds as well as still and video pictures.

Examples of common types of camera are shown below, along with some other types of cameras that are disguised as other devices.

Digital Cameras [42 - 44]

Digital 'Spy' Cameras [45 - 48]

527.13. Digital video cameras

A video camera issued to take motion pictures, which are often stored on removable media and now-a-days even on hard disks contained within the camera itself. In some cases these cameras look very similar to digital still cameras and it is important to be able to differentiate between the two types. Some example images of video camera are shown below.

Digital Video Cameras [49 - 51]

527.14. Video Recorders

Video recorders are usually found in domestic premises and used to record TV programmes or other locally based activity. They are also used to play back pre-recorded films, music and other data. The Video Home System (VHS) recorders were prominent from the 1970s until overtaken by digital versions. VHSs as recorded and played back from tapes and these may still be found in some circumstances, as may optical discs which did appear but did not become main stream. Recording on Digital Versatile Disk (DVD) became the standard and these as well as Blu-ray discs are still used in these devices. Modern Video Recorders even store their contents on built-in hard drives.

VHS Video [52]

Digital Video Recorder [53]

527.15. Digital Audio Recorders

Digital audio recorders are small hand held devices used to record voice memos to a memory chip and play the memos back. They may also be used to record presentations, conferences or conversations (subject to legal authority in most countries). They come in various capacities in terms of recording time. Some of these recorders have a USB capability that allows the recordings to be uploaded to a computer.

Digital Audio Recorders [54 - 56]

C527.16. CTV Cameras

Closed Circuit Television (CCTV)monitors activity in a confined space and with a specific target or targets. They are used by companies, governments and individuals for security and may provide evidence that certain activities have or have not taken place. CCTV may be

deployed continually or to monitor a particular activity. In some countries, CC TV has become a tool for surveillance in public places and is often used in order to detect public disorder or criminal activity. Some CCTV cameras record the activities on storage media, while others are only used for live monitoring. They should be considered as potential sources of electronic evidence, even in the control of third parties. Scene management should consider establishing if CCTV exists in the area. Some examples of how CCTV cameras may look like are set out below.

Closed Circuit Television (CCTV) Cameras [57 - 60]

527.17. Portable media players

Portable media players such as Moving Picture Expert Group Audio Layer3 (**MP3)** players, store and play digital media such as music and other audio ,images, video as well as other files including documents and other types of fields that are capable of being stored digitally. Once again, these devices have many similarities to computers. Some of these devices use on board or removable flash storage while others have large hard disks capable of storing many thousands of files. These devices are in wide circulation and their capabilities are often included in mobile telephones. Some examples are provided below.

Portable Media Players [61 - 65]

527.18. Consoles of Videogames

Video games consoles have existed since the early 1970s and have developed greatly in the years. They are found normally in domestic environments and may be the source of potential electronic evidence, so, therefore, should not be ignored. These devices use on board or removable flash storage and allow the users not only to play games but also to visit websites and to store and play videos, photos and music. Major video games companies include Sony, Nintendo and Microsoft and they have the majority of the market for consoles and games.

527.19. Potential evidence that may be found on all these devices

A computer system and its components can often be valuable evidence in any type of investigation. The hardware and software itself together with items stored on the computer itself or by the users; such as documents, photos, image files, e-mails and attachments, databases, financial information, Internet browsing history, chat logs, event logs, data stored on and about other devices that have been connected to the computer and its components may all be potential evidence.

527.20. What is Digital Evidence and the Nature of Digital Evidence

Digital evidence or electronic evidence is "any probative information stored or transmitted in digital form that a party to a court case may use at trial" (Casey, Eoghan). Section 79A of IT act amendment 2008 defines electronic form evidence as "any information of probative value that is either stored or transmitted in electronic form and includes computer evidence, digital audio, digital video, cell phones, digital fax machines".

The main characteristics of digital evidence are, it is latent as fingerprints and DNA, can transcend national borders with ease and speed, highly fragile and can be easily altered, damaged, or destroyed and also time sensitive. For this reason, special precautions should be taken to document, collect, preserve, and examine this type of evidence. When dealing with digital evidence, the principles that should be applied are, actions taken to secure and collect digital evidence should not change that evidence; persons conducting the examination of digital evidence should be trained for this purpose and activity relating to the seizure, examination, storage, or transfer of digital evidence should be fully documented, preserved, and available for review.

527.21. What is electronic evidence?

All legal proceedings rely on the production of evidence in order to take place. Traditionally and historically, that evidence has been in a physical form such as documents, photographs etc. Evidence that is used in judicial proceedings that emanates from electronic devices such as computers and its peripheral devices, computer networks, mobile telephones, digital cameras, other mobile devices including data storage devices as well as from the Internet are all forms of electronic evidence.

Electronic evidence is no different from traditional evidence in that is necessary for the party introducing it into legal proceedings, to be able to demonstrate that it is no more and no less than it was, when it came into their possession. In other words, no changes, deletions, additions or other alterations have taken place.

The very nature of data and information held in electronic form makes it easier to manipulate than traditional forms of data. This creates specific issues for the justice system and requires that the handling of such data is carried out in a manner that ensures the continued integrity of the information may be maintained and proved.

Even though national legislations do not often include direct and explicit references to electronic evidence, even less a specific and exclusive definition per se, a generally accepted definition, constituting a good starting point to discuss its special characteristics, follows: Electronic evidence is information generated, stored or transmitted using electronic devices that may be relied upon in court.

Electronic evidence shares most properties with traditional forms of evidence, but possesses some unique characteristics that distinguish it:

It is invisible to the untrained eye: Electronic evidence is often found in places where only specialists would search or locations reachable only by means of very specific tools. Just as a scanning electron microscope allows an entomologist to identify key morphologic features of fly eggs, specific tools exist in digital forensics to examine and analyse data found in computers.

It may need to be interpreted by a specialist: Information found on computers is of little use to a non-specialist as he will not be able to extract the properties or the related evidence that assures that the relevant information is truthful and has not been manipulated or tampered with. In some cases, just as in blood spatter pattern analysis, highly specialised knowledge must be applied.

It is highly volatile: Sometimes, electronic evidence is found on devices in which hesitate (0 or 1 per bit) of their memory gets

overwritten every time a specific event happens. In some cases it might be the loss of power, in other cases it could be that an automated system overwrites old information in order to leave spaces to store new information. Devices on which electronic evidence might reside must be preserved as soon as possible.

It may be altered or destroyed through normal use: Devices constantly change the state of their memories, be it on user request ("save this document", "copy this file") or automatically by the computer operating system ("allocate space for this program", "temporarily store information to swap it between devices"). This characteristic high lights the importance of handling the electronic device in an appropriate way from the moment it is identified as relevant for an investigation.

It can be copied without limits: digital information can be copied indefinitely and each copy will be exactly like the original. This unique attribute allows multiple, exact copies of the original to be distributed and analysed by different specialists at the same time. It also allows electronic evidence to be presented as-is in a court along with the specialist witness report.

Similar to other types of forensic evidence, acquisition and handling of electronic evidence are very sensitive areas and close attention must be paid to ensure that the following general guidelines are followed at all times:

Handling by specialists: Each electronic device has specific characteristics, so specific procedures must be strictly followed to access its memory where electronic evidence could be stored. In the case of electronic evidence, one of the most prominent risks is the unintentional modification of part of the evidence. This could raise doubts about the specific changes, and whether the incriminating or exonerating evidence has been tampered with, which could in turn raise admissibility problems in Court.

Rapid evolution of electronic evidence sources: New technologies develop very quickly and there is a need for constant update not only of the new technologies themselves but also of the procedures and techniques that have to be applied in order to seize their content and analyse it.

Use of proper procedures, techniques and tools: As in more traditional forensic disciplines, digital forensic specialists require, besides the specialist knowledge, specific tools to undertake their job properly, such as to capture all original information from advice. It is imperative that adequate techniques and tools are used, and that procedures are traceable and repeatable by other specialists, so that the captured information is of evidentiary value.

Admissibility : Since the ultimate goal is the use of acquired and analysed evidence to support a case in court, electronic evidence must be obtained in compliance with existing legislation and best practice procedure to be admissible in a trial. Although the details differ depending on national legislation, the following basic criteria must generally be taken into account.

Authenticity : It must be possible to positively tie evidentiary material to the investigated incident.

Completeness : It must tell the whole story and not just a particular perspective.

Reliability : There must be nothing about how the evidence was collected and subsequently handled which causes doubt about its authenticity and veracity.

Believability : It must be readily believable and understandable to a judge.

Proportionality : Its application to Digital Forensics establishes that the whole investigative process must be adequate and appropriate: the benefits that are to be gained by using a specific measure must outweigh the harms for the party or parties affected by the measure.

The branch of forensic science that focuses on identifying, acquisition, processing, analysis and reporting of evidence that is stored on computer systems, digital devices and other storage media with the aim of admissibility in court, is called Digital Forensics.

527.22. Why is it important ?

The massive use of digital media and the Internet, are not exempt from conflicts or from fraudulent or criminal practices. Traditional types of fraud and crimes have been modified to use new channels of communication new criminal categories. Criminals and organised gangs have found a strong ally in the new technological medium for committing crimes, such as distribution of images of child abuse through the Internet, phishing, pharming, abuse of corporate resources and unfair competition, among many others.

With these new ways of perpetration and the introduction of new types of crimes where electronic devices are involved, a new tool has appeared that is necessary to be able to prove or refute these new types of crime: electronic evidence. It is important to remember that such evidence may just as easily prove that someone did not do something they are accused of as well as the opposite.

When handled correctly, electronic evidence may be most compelling.

This is an instrument that, little by little, is starting to become a part of our daily lives and is acquiring increasing importance in lawsuits. It can be affirmed that traditional evidence is migrating from paper supporting documents towards a virtual environment and its management processes and criteria for admissibility are changing with respect to traditional evidence. In the past 25 years, electronic evidence has provided crucial evidence in all types of judicial hearings.

The exponential increase in the use of technology in everyday life is historically unprecedented. As a result, those involved in the justice system have had to come to terms with a variety of forms of electronic evidence and how to deal with it. Almost any type of investigation may benefit from such evidence that may come in many forms from the traditional computer based evidence to that found on mobile devices such as mobile phones, many of which are now computers in their own right. Development of the Internet and its applications has again led to the potential for evidence to be recovered from web sites, social networking sites as well as e-mail and chat, just to give a few examples. Most recently development of "the cloud" where applications as well as data are stored across jurisdictions means that it is more important than ever that potential evidence in electronic form is handled within the bounds of well-founded principles and practices, in order to ensure correct accessibility to it when it is needed as well as its integrity and validity in judicial proceedings.

This guide seeks to provide background information, which will support managers and practitioners alike in recognizing, handling and dealing with electronic evidence in an acceptable manner.

528.1 Principles of electronic evidence (45-A,65-A,65-B of IE Act)

The following principles are provided to give the reader a basis that justifies all their dealings with electronic evidence. These principles were adopted as part of a European Commission funded project to develop a "seizure of e-evidence" guide. As this was an international rather than a national guide, use of the principles is considered appropriate. Much has changed in the world of technology in the ten years since the guide was produced. It is therefore, considered appropriate to add further comment to each of the principles to meet today's challenges.

Principle 1 – Data Integrity

No action taken should change electronic devices or media, which may subsequently be relied upon in court.

When handling electronic devices and data, they must not be changed, either in relation to hardware or software. The person in charge is

responsible for the integrity of the material recovered from the scene and thus for commencing a forensic chain of custody.

There are circumstances where a decision will be made to access the data on a "live" computer system to avoid the loss of potential evidence. This must be undertaken in a manner, which causes the least impact on the data and by a person qualified to do so. Principles 2 to 5 should be taken into account if this course of action is found necessary.

Principle 2 – Audit Trail

An audit trail or other record of all actions taken when handling electronic evidence should be created and preserved. An independent third party should be able to examine those actions and achieve the same result.

It is imperative to accurately record all activities to enable a third party to reconstruct the first responder's actions at the scene in order to ensure probative value in court. All activity relating to the seizure, access, storage or transfer of electronic evidence must be fully documented, preserved and available for review.

Principle 3 – Specialist Support

If it is assumed that electronic evidence may be found in the course of an operation, the person in charge should notify specialists/external advisers in time.

For investigations involving search and seizure of electronic evidence it may be necessary to consult external specialists. All external specialists should be familiar with the principles laid down in this or similar relevant documents. A specialist should have:

a) Necessary specialist expertise and experience in the field,
b) Necessary investigative knowledge,
c) Necessary knowledge of the matter at hand,
d) Necessary legal knowledge,
e) Appropriate communication skills (for both oral and written explanations)
f) Necessary appropriate language skills.

Principle 4 – Appropriate Training

First responders must be appropriately trained to be able to search for and seize electronic evidence if no experts are available at the scene. In exceptional circumstances where it is necessary that a first responder collect electronic evidence and/or access original data held on an electronic device or digital storage media, the first responder must be trained to do it properly and to explain the relevance and implications of his/her actions.

Principle 5 – Legality:

The person and agency in charge of the case are responsible for ensuring that the law, the general forensic and procedural principles, and the above listed principles are adhered to. This applies to the possession of and access to electronic evidence.

528.2. Cyber Forensics :

Dictionary.com defines forensics as, "The use of science and technology to investigate and establish facts in criminal or civil courts of law." Computer/ Cyber forensics is an emerging practice to discover evidence from digital devices, and prosecute criminals in a court of law. The term "Computer Forensics" was coined back in 1991 in the first training session held by the International Association of Computer Investigative Specialists (IACIS) in Portland, Oregon. Like traditional forensics, Computer forensics is a science, and uses specialized skills, tools and programs.

In simple terms from an investigators' perspective, it is the science of extraction of evidences from digital devices without altering the authenticity of the original evidence object.

528.3. Cyber Forensics Definition :

Computer Forensics is also called Forensic Computing or Cyber Forensics, the youngest branch of forensic science, thoroughly peer reviewed techniques/procedures, well tested tools deals with the preservation, identification, extraction, interpretation, and documentation of computer evidence,. There are various definitions, a few are:

a) Computer forensics is simply the application of computer investigation and analysis techniques in the interests of determining potential legal evidence. (Judd Robbins).

b) Forensic Computing is *the process of identifying*, *preserving*, *analysing* and *presenting digital evidence in a manner that is legally acceptable*." (Rodney. Mc Kemmish 1999).

c) Computer forensics is the application of scientifically proven methods to gather, process, interpret, and to use digital evidence to provide a conclusive description of cyber crime activities.(www. webopedia. com)

d) The investigation of a computer system believed to be involved in cyber crime.

e) The study of evidence from attacks on computer systems in order to learn what has occurred, how to prevent it from recurring, and the extent of the damage. (McGraw-Hill Dictionary of Scientific & Technical Terms,)

f) The application of computer investigation and analysis techniques to gather evidence suitable for presentation in a court of law.

528.4. Classification of Cyber Forensics :

The branch of Cyber forensics was classified into various sub branches. A few important are:

Disk forensics is deals with the extracting data/information from storage media by searching active, deleted files and also from unallocated, slack spaces.

Network forensics is a sub-branch of digital forensics relating to the monitoring and analysis of computer network traffic for the purposes of information gathering, legal evidence or intrusion detection. Unlike other areas of digital forensics, network investigations deal with volatile and dynamic information. Network traffic is transmitted and then lost, so network forensics is often a pro-active investigation.

Wireless forensics is a sub-discipline of network forensics. The main goal of wireless forensics is to provide the methodology and tools required to collect and analyse wireless network traffic data. The data collected can correspond to plain data or, with the broad usage of Voice-over-IP (VoIP) technologies, especially over wireless, can include voice conversations.

Database Forensics is a branch of digital forensic science relating to the forensic study of databases and their related metadata. A forensic examination of a database may relate to the timestamps that apply to the update time of a row in a relational table being inspected and tested for validity in order to verify the actions of a database user.

Malware Forensics deals with Investigating and Analysing Malicious Code for identification of Malware like viruses, Trojans, worms, key loggers etc., and to study their payload.

Mobile device forensics deals with examining and analysing mobile devices like mobile phones, pagers to retrieve addresses book, call logs (Missed, Dialled, Received), Paired Device History, Incoming/Out Going SMS/ MMS, Videos, Photos, Audio. etc.

GPS forensics, also known as Sat Nav Forensics, is a relatively new discipline within the fast paced world of Mobile Device Forensics is examining and analysing GPS devices to retrieve Track Logs, Track points, Waypoints, Routes, Stored Location; Home, Office, etc.,.

Cloud Forensics. We often do not have access to the information that we're after and must ask the cloud service provider to furnish the information we need. The problem with such data is that we must trust the cloud service provider to give us the right information; they might give us false information or hold back some very important information. This is just another problem when trying to use the data in court, because

we must prove without a doubt that the evidence from the collected data belongs to the user; the process of collecting the data, preserving it, and analyzing it must be documented and acceptable in the court of law.

When an attack has occurred on a cloud service, there are a lot of different problems we need to address, but the most important of them is communication with cloud service provider. Because the services are located in the cloud, there is a lot of information that could serve as evidence which can only be provided by the CSP, since only the cloud provider has access to it. Therefore, there are also other problems with gathering the data when working with cloud environments, such as data being located in multiple data centers located around the globe, data of different users being located in the same storage device, etc.

528.5. Cyber Crimes and Information Technology Act

There are various constraints and it is extremely difficult for conventional laws to address the cybercrime related issues. Cyber crime is an intangible dimension that is very difficult to govern or enforce.

Information Technology Act 2000 (ITA 2000) is an Omnibus Act for promotion of e-commerce and e governance, acceptance of electronic documents at par with paper documents, acceptance of digital signatures at par with normal handwritten signatures, and for dealing with some forms of cybercrime to enhance trust in cyberspace. The Indian Penal Code and the Indian Evidence Act were also amended to include cybercrimes and digital evidences covered by ITA 2000.

The ITA 2000 was amended in December 2008 as the IT (Amendment) Act, 2008 (ITAA 2008), and notified for implementation from 27th October 2009. ITAA 2008 has created a strong data protection regime by mandating reasonable security practices to protect sensitive personal information and several provisions for handling cyber crimes like identity theft and cyber terrorism.

1. Information Technology Act,2000 and Information Technology Amendment Act, 2008
2. Indian Penal Code 1860
3. The Indian Evidence Act, 1872
4. The Indian Telegraph Act, 1885
5. Bankers' Book of Evidence Act, 1891.

Relevant portions of the ITA 2000 and ITAA 2008 are furnished at Annexure 3-1. Investigators are advised to refer to the full acts, for further clarity.

528.6. Penal Sections of IT (A) Act, 2008

Sl. No	Nature of complaint	Applicable section(s) and punishments under ITA 2000 & ITAA 2008	Applicable section(s) under other laws and punishment
1	Mobile phone lost/stolen	-	Section 379 IPC 3 years imprisonment or fine or both
2	Receiving stolen computer/mobile phone/ data (data or computer or mobile phone owned by you is found in the hands of someone else.)	Section 66 B of ITAA 2008 - 3 years imprisonment or Rupees one lakh fine or both	Section 411 IPC - 3 years imprisonment or fine or both
3	Data owned by you or your company in any form is stolen	Section 66 of ITAA 2008 - 3 years imprisonment or fine up to rupees five lakh or both	Section 379 IPC - 3 years imprisonment or fine or both
4	A password is stolen and used by someone else for fraudulent purpose.	Section 66C of ITAA 2008 - 3 years imprisonment and fine up to Rupees one lakh Section 66D ITAA 2008 - 3 years imprisonment and fine up to Rupees one lakh	Section 419 IPC - 3 years imprisonment or fine Section 420 IPC - 7 years imprisonment and fine
5	An e-mail is read by someone else by fraudulently making use of password	Section 66 of ITAA 2008 - 3 years imprisonment or fine up to Rupees five lakh or both Section 66C of ITAA 2008 - 3 years imprisonment and fine up to Rupees one lakh	
6	A biometric thumb impression is misused	Section 66C of ITAA 2008 - 3 years imprisonment and fine up to Rupees one lakh	
7	An electronic signature or digital signature is misused	Section 66C of ITAA 2008 - 3 years imprisonment and fine up to Rupees one lakh	
8	A Phishing e-mail is sent out in your name, asking for login credentials	Section 66D of ITAA 2008 - 3 years imprisonment and fine up to Rupees one lakh	Section 419 IPC - 3 years imprisonment or fine or both
9	Capturing, publishing, or transmitting the image of the private area without any person's consent or knowledge	Section 66E of ITAA 2008 - Three years imprisonment or fine not exceeding Rupees two lakh or both	Section 292 IPC - Two years imprisonment and fine Rupees 2000 and 5 years and rupees 5000 for second and subsequent conviction

Sl. No	Nature of complaint	Applicable section(s) and punishments under ITA 2000 & ITAA 2008	Applicable section(s) under other laws and punishment
10	Tampering with computer source Documents	Section 65 of ITAA 2008 - Three years imprisonment or fine up to Rupees two lakh or both Section 66 of ITAA 2008 - Three years imprisonment or fine up to Rupees five lakh or both	
11	Data Modification	Section 66 of ITAA 2008 - Three years imprisonment or fine up to Rupees five lakh or both	
12	Sending offensive messages through communication service, etc.		Section 500 IPC - 2 years or fine or both Section 504 IPC - 2 years or fine or both Section 506 IPC - 2 years or fine or both - if threat be to cause death or grievous hurt, etc. - 7 years or fine or both Section 507 IPC - 2 years along with punishment under section 506 IPC Section 508 IPC - 1 year or fine or both Section 509 IPC - 1 years or fine or both of IPC as applicable
13	Publishing or transmitting obscene material in electronic form	Section 67 of ITAA 2008 first conviction - Three years and 5 lakh Second or subsequent conviction - 5 years and up to 10 lakh	Section 292 IPC - Two years imprisonment and fine Rupees 2000 and five years and rupees 5000 for second and subsequent conviction
14	Publishing or transmitting of material containing sexually explicit act, etc., in electronic form	Section 67A of ITAA 2008 first conviction - Five years and up to 10 lakh Second or subsequent conviction - 7 years and up to 10 lakh	Section 292 IPC - Two years imprisonment and fine Rupees 2000 and five years and rupees 5000 for second and subsequent conviction
15	Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form	Section 67B of ITAA 2008 first conviction - Five years and up to 10 lakh Second or subsequent conviction - 7 years and up to 10 lakh	Section 292 IPC - Two years imprisonment and fine Rupees 2000 and five years and rupees 5000 for second and subsequent conviction

Sl. No	Nature of complaint	Applicable section(s) and punishments under ITA 2000 & ITAA 2008	Applicable section(s) under other laws and punishment
16	Misusing a Wi-Fi connection for acting against the state	Section 66 - Three years imprisonment or fine up to Rupees five lakh or both Section 66F - life imprisonment of ITAA 2008	
17	Planting a computer virus that acts against the state	Section 66 - 3 years imprisonment or fine up to Rupees five lakh or both 66F - life imprisonment	
18	Conducting a denial of service attack against a government computer	Section 66 of ITAA 2008 - 3 years imprisonment or fine up to Rupees five lakh or both Section 66F of ITAA 2008 - life imprisonment of	
19	Stealing data from a government computer that has significance from national security perspective	Section 66 of ITAA 2008 - 3 years imprisonment or fine up to Rupees five lakh or both, 66F - life imprisonment	
20	Not allowing the authorities to decrypt all communication that passes through your computer or network.	Section 69 of ITAA 2008 - imprisonment up to 7 years and fine	
21	Intermediaries not providing access to information stored on their computer to the relevant authorities	Section 69 of ITAA 2008 - imprisonment up to 7 years and fine	
22	Failure to Block Web sites, when ordered	Section 69A of ITAA 2008 - imprisonment up to 7 years and fine	
23	Sending threatening messages by e-mail		Section 504 - 2 years or fine or both
24	Word, gesture or act intended to insult the modesty of a woman		Section 509 IPC - 1 years or fine or both - IPC as applicable
25	Sending defamatory messages by e-mail		Section 500 IPC - 2 years or fine or both

Sl. No	Nature of complaint	Applicable section(s) and punishments under ITA 2000 & ITAA 2008	Applicable section(s) under other laws and punishment
26	Bogus Web sites, cyber frauds	Section 66D of ITAA 2008 - 3 years imprisonment and fine up to Rupees one lakh	Section 419 - 3 years imprisonment or fine Section 420 IPC - 7 years imprisonment and fine
27	E-mail Spoofing	Section 66C of ITAA 2008 - 3 years imprisonment and fine up to Rupees one lakh	Section 465 IPC - 2 years or fine or both Section 468 IPC - 7 years imprisonment and fine
28	Making a false document	Section 66D of ITAA 2008 - 3 years imprisonment and fine up to Rupees one lakh)	Section 465 IPC - 2 years or fine or both
29	Forgery for purpose of cheating	Section 66D of ITAA 2008 - 3 years imprisonment and fine up to Rupees one lakh	Section. 468 IPC - 7 years imprisonment and fine
30	Forgery for purpose of harming reputation	Section 66D of ITAA 2008 - 3 years imprisonment and fine up to Rupees one lakh	Section. 469 IPC - 3 years and fine
31	E-mail Abuse		Sec. 500 IPC - 2 years or fine or both
32	Punishment for criminal intimidation		Sec. 506 IPC - 2 years or fine or both - if threat be to cause death or grievous hurt, etc. - 7 years or fine or both
33	Criminal intimidation by an anonymous communication		Sec. 507 IPC - 2 years along with punishment under section 506 IPC
34	Copyright infringement	Section 66 of ITAA 2008 - 3 years imprisonment or fine up to Rupees five lakh or both	Sec. 63, 63B Copyrights Act 1957
35	Theft of Computer Hardware		Sec. 379 IPC 3 years imprisonment or fine or both
36	Online Sale of Drugs		NDPS Act
37	Online Sale of Arms		NDPS Act

This is not exhaustive mapping but more of suggestive mapping.

528.7. Pre-Investigation Technical Assessment to Determine the impact and Scope of the Offence / Incident

Scene of offence: Cyber Cafe

a) Identify number of computer systems present in the cyber café.

b) Identify number of computer systems connected to Internet.

c) Obtain details about the network topology and architecture (client — Server).

d) Obtain the CCTV/Web camera clippings, if any.

e) Whether any user management software is used by the cyber café owner?

f) Obtain the log register of Internet users for the relevant period.

g) Check the formatting of storage devices policy adopted by the cyber café owner.

h) Check the hardware replacements done by the cyber café owner.

i) Check the policy regarding removal media usage on the cyber café systems.

528.8. Scene of offence: Home :

a) Identify the type of connection (Wi-Fi/Ethernet).

b) How many computer systems are used for Internet connection?

c) Location of the system and details of persons with access to system(s).

d) Obtain the details about the removable storage media (including external hard disk) used / owned by the user.

Obtain details about the network topology and architecture (client — Server), if any. Obtain the details about other computer peripherals (printer/scanner/modem, etc.).

528.9. Scene of offence: Corporate Environment :

As discussed in the previous section, the pre-investigation assessment should be commenced by eliciting all the right and relevant information which will give the IO an idea about the full scope of the incident / crime. With a view to guide the IOs, a set of questions have been compiled which potentially can lead to holistic understanding of the large networks. While the pre-investigation assessment questionnaire gives the IO a set

of questions, each IO needs to keep in mind that this list can further be expanded depending on the crime / crime scene situation.

10. Questionnaire for crime in which computers are used as instrument/ means OR repository :

This questionnaire helps the Investigation Office to gather the basic information where crime is committed using the computer systems as means/instrument to commit the crime. Please refer to Annexure 4-1 for model questionnaire.

11. Questionnaire for crime targeting computer systems:

This questionnaire helps the Investigation Office to gather the relevant information where crime committed is targeted to destroy or affect the services, etc., of a computer system/server using the Internet or any other network. Please refer to Annexure 4-2 for model questionnaire.

The above format(s) for pre-investigation assessment will help the IO(s) to understand the incident in totality. At the end of the pre-investigation assessment the IO will be able to decide on the issue of preservation notices for the designated / authorized persons (in case of a company or large establishment with number of systems) or individuals who are owners of the systems and victims. Similarly, it will allow the IO to decide on the kind of technical support to be requisitioned, to proceed with the acquisition of evidences. Above all, the Investigating officer decides how to proceed with investigations.

12. Steps in Crime Scene Investigation

Cybercrime scene is completely different from the conventional crime scene. As mentioned earlier, the digital evidence is highly fragile, and it can be tampered easily and stealthily. Utmost care and, precautions must be taken during search, collection, preservation, transportation and during examination of evidence.

The sequences of steps for digital crime scene investigations are

- Identifying and securing the crime scene
- 'as is where is' documentation of the scene of offence
- Collection of evidence

Procedure for gathering evidences from Switched-off Systems Procedure for gathering evidence from live systems

- Forensic duplication
- Conducting interviews
- Labelling and, documenting of the evidence
- Packaging, and transportation of the evidences

The identification and securing of crime scene has been dealt in detail in the pre-investigation assessment of the Crime and, various guidelines / instructions have been given to ensure capturing of the situation at the scene of crime scene through, 'as is where is documentation' process.

13. Investigative Tools and Equipment

Some basic tools and equipment are essentially required to collect electronic evidence. Experience has shown that advances in technology may dictate changes in the tools and equipment required. Preparations should be made to get the equipment required to collect electronic evidence. Investigative agencies should have general crime scene processing equipment, such as cameras, notepads, sketch pads, evidence forms, crime scene tape and markers. Each aspect of the process (documentation, collection, packaging, and transportation) dictates tools and equipment. The following are some of the basic items that are useful to have in a tool kit at an electronic crime scene:

Documentation tools such as -

i. Cable tags.

ii. Indelible felt-tip markers.

iii. Stick-on labels.

Disassembly and removal tools in a variety of non-magnetic sizes and types that include—

i. Flat-blade and cross-tip screwdrivers.

ii. Hex-nut and secure-bit drivers.

iii. Star-type nut drivers.

iv. Needle-nose and standard

v. Small tweezers.

vi. Specialized screwdrivers (manufacturer specific).

vii. Wire cutters.

Packaging and transporting supplies such as -

i. Antistatic bags and bubble wrap.

ii. Cable ties and Evidence bags.

iii. Evidence and packing tape.

iv. Sturdy boxes of various sizes.

v. Faraday Bags to pack mobile / wireless devices.

Other items such as -

i. Evidence tags.

ii. Evidence tape.

iii. Gloves. Forms,

iv. A hand truck

v. Large rubber bands

vi. A list of contact telephone numbers for assistance.

vii. A magnifying glass.

viii. Printer paper.

ix. A seizure disk.

x. A small flashlight.

xi. Fully-formatted floppy diskettes (3 inch and 5 ¼ inch).

14. Collection of Digital evidence-Procedure for gathering evidence from switched-off systems

i. Secure and take control of the area containing the equipment.

ii. Allow any printers to finish printing.

iii. Move people away from any computers and power supplies.

iv. Don't, in any circumstances, switch the computer on.

v. Make sure that the computer is switched off – some screen savers may give the appearance that the computer is switched off, but hard drive and monitor activity lights may indicate that the machine is switched on.

vi. Beware that some laptop computers may power on by opening the lid.

vii. Remove the battery from laptop computers.

viii. Unplug the power and other devices from sockets: a computer that is apparently switched off may be in sleep mode and may be accessed remotely, allowing the alteration or deletion of files.

ix. Label and photograph (or video) all the components in situ and if no camera is available, draw a sketch plan of the system.

x. Label the ports and cables so that the computer may be reconstructed at a later date.

xi. Carefully remove the equipment and record the unique identifiers – the main unit, screen, keyboard and other equipment will have separate identifiers.

xii. Ensure that all items have signed and completed exhibit labels attached to them as failure to do so may create difficulties with continuity and cause the equipment to be rejected by the forensic examiners.

xiii. Search area for diaries, notebooks or pieces of paper with passwords on which are often stuck to or close to the computer.

xiv. Consider asking the user if there are any passwords and if these are given record them accurately.

Make detailed notes of all actions taken in relation to the computer equipment.

528.15. Procedure for gathering evidences from live systems (Switched-on Systems)

a) Secure the area containing the equipment.

b) Move people away from computer and power supply.

c) Disconnect the modem if attached.

d) If the computer is believed to be networked, seek advice from the technically trained officer, in-house forensic analyst or external specialist.

e) Do not take advice from the owner / user of the computer.

f) Label and photograph or videograph all the components including the leads in situ. If no camera is available, draw a sketch plan of the system and label the ports and cables so that the computer may be reconstructed at a later date.

g) Remove all other connection cables leading from the computer to other wall or floor sockets or devices.

h) Carefully remove the equipment and record the unique identifiers – the main unit, screen, keyboards and other equipment will have different numbers.

i) Ensure that all items have signed exhibit labels attached to them as failure to do so may cause difficulty with continuity and cause the equipment to be rejected by the forensic examiners.

j) Allow the equipment to cool down before removal.

k) Search area for diaries, notebooks or pieces of paper with passwords on which are often stuck to or close to the computer.

l) Consider asking the user if there are any passwords and if these are given record them accurately.

m) Make detailed notes of all actions taken in relation to the computer equipment.

n) Record what is on the screen by photograph and by making a written note of the content of the screen.

o) Do not touch the keyboard or click the mouse and if the screen is blank or a screen saver is present, the case officer should be asked to decide if they wish to restore the screen. If so, a short movement of the mouse will restore the screen or reveal that the screen saver is password protected. If the screen restores, photograph or video and note its content. If password protected is shown, continue as below without

any further touching the mouse. Record the time and the activity of the use of the mouse in these circumstances.

p) Take the help of technical expert to use live forensics tool to extract the information that is present in the temporary storage memory like RAM.

q) If no specialist advice is available, remove the power supply from the back of the computer without closing down any programs. When removing the power supply cable, always remove the end attached to the computer and not that attached to the socket, this will avoid any data being written to the hard drive if an uninterruptible power protection device is fitted.

528.16. Procedure for gathering evidences from Mobile Phones

a) If the device is "off", do not turn "on".

b) With PDAs or cell phones, if device is on, leave on. Powering down device could enable password, thus preventing access to evidence.

c) Photograph device and screen display (if available).

d) Label and collect all cables (to include power supply) and transport with device.

e) Keep device charged.

f) If device cannot be kept charged, analysis by a specialist must be completed prior to battery discharge or data may be lost.

g) Seize additional storage media (memory sticks, compact flash, etc.).

h) Document all steps involved in seizure of device and components.

528.17. Forensic Duplication – A Technical Introduction

Forensic duplication refers to bit stream imaging of data from the digital media in question. Data is contained in all sorts of storage media present in computers, smart phones, GPS devices, USB drives, and so on. We need to be able to get to this information in a manner that it does not change the information on the devices themselves. If the evidence is not collected properly, we face an issue where the results of the forensic examination will be put in doubt. Hence, it is necessary to copy the data carefully in a forensically sound manner.

a) Photograph the computer case and serial number.

b) Complete the Digital Evidence Collection Form.

c) Remove the cover from the computer case.

d) Photograph the hard disk drive (HDD) in the case.

e) Remove the HDD(s), if possible.

528.18. Procedure to be followed for forensic image:

a) Photograph the HDD model and serial numbers.

b) When the drive has been removed, complete a BIOS and CMOS examination, as necessary.

c) Examine each hard drive for manufacturer's parameters. Identify and / or verify physical size for comparison to the size identified by the software.

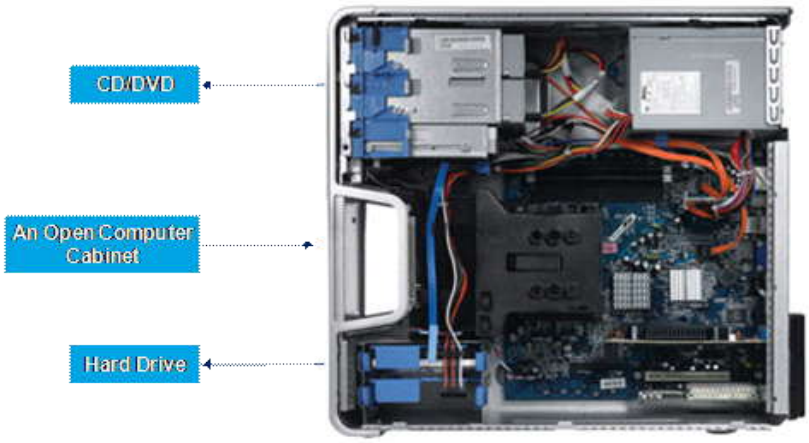
d) All imaging will be done using a Computer Forensics Laboratory recommended controlled boot disk that ensures fixed disk write-protection or with a physical read-only device in Windows.

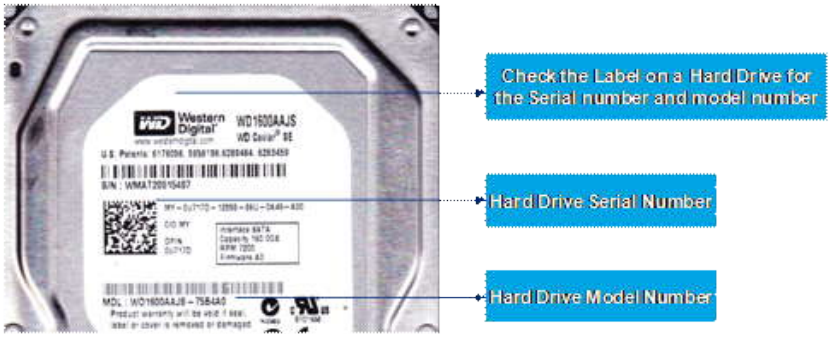
e) Image the physical drive, if at all possible. If a physical image is not possible, a detailed description of what was done must be included in the case file.

f) The IO or the forensic expert shall ensure that verification is completed on each image created.

g) A Message Digest 5 (MD5) Hash should be computed for each image during acquisition and/or at the completion of a drive copy.

A Secure Hashing Algorithm (SHA) is also acceptable.





a) Forensic image files, (i.e., Cyber Check Suite ".p01", Encase ".e01", or Safe Back ".001/.SFB" files) are written as logical files and shall be created on brand new freshly formatted media or forensically wiped sterile media if new media is not available. HDDs are to be used only once for original evidence storage.

b) Logical file copies of the forensic image files shall be made on brand new (sterile) HDDs before travelling back to the office. These drive copies shall be labelled as copy of hard drive, etc.

c) Using barcode is one of the best methods. In case of non-availability of barcode, a serial code with relevant information like unit name, year, case number, etc., can be used. For e.g. CID/2010/21. In this 2010 represent the year, 20 represent the crime number, and the last three digits represent serial number given to each evidence collected and can grow as 001, 002, etc., depending on the number of media acquired.

528.19. Some of the ways for acquiring data in a forensically sound manner from different devices are:

Hard Drives (Desktops and Laptops): Use forensic software like Cyber Check Suite, Encase, FTK to image the drives. Be sure to connect the evidence drives to a write blocker so that the OS does not accidentally write to the hard drive. The Write blockers restricts any data to be written on to the seized hard disk either intentionally or accidently. The Write protection device is used as an interface between the seized media and the forensic computer.

Smartphone : Use software like Cellebrite, Paraben Device Seizure to image cell phones. Information like SMS, MMS, call records, contact lists, GPS info, pictures, videos can be acquired from a cell phone. For most cell phones, there is no way to make sure that there is no change on the device, short of taking apart the phone completely and acquiring the information using extremely advanced methods. But the courts accept information that has been gathered using forensic software. Also, precaution to be taken while working with the mobile phones in ON mode, like usage of Network jammers/Faraday's bag.

USB Drives : USB drives can be imaged using software/hardware-based write blockers to connect to the forensic machine and then imaging the drive.

Digital Camera : The memory card and the internal memory present on the camera can be acquired using the technique for USB drives.

528.20. Process to be followed when the hard disk drive(s) cannot be removed:

a) With laptops shrinking in size and Solid State Drives (SSDs) like in Mac Book Air etc., becoming more prevalent than regular hard drives, it is certain that you would come across laptops wherein it is not possible to remove the hard drive from the laptop easily. Also, there are some other devices like network attached printers and CD/DVD duplicators, which contain their own hard drive and they may be easily removable.

b) If the hard drive cannot be removed from the device, then it would be necessary to get the entire device into evidence. This is a better option than going through documentation on how to safely get the drive out or worse, breaking into the device to get the hard drive out.

c) If the hard drive cannot be removed, then we have to image the computer using network acquisition. This is done by connecting the evidence computer to the forensic computer via a special Ethernet cable called a cross cable (Network crossover cable). Once the computers are connected, boot the evidence computer from a forensic Distribution like Helix or Linen and connect the forensic computer to the evidence computer using forensic tool like Encase. Now, the acquisition just occurs like a regular hard drive acquisition.

528.21. Network Drives Imaging and Logical file collection :

There are scenarios in which it is not possible to take the evidence machine offline, like the machine may be a file server or a database server serving up business-critical applications. In such cases, we do not shutdown the machine and take the hard drive out. In the course of the interview, we need to determine if the machine has any relevant data and if so, where it is stored. In such cases, data is copied to external drives using forensic tools like Cyber Check Suite, Encase Logical File Collection or tools like Robocop.

22. Network and Parallel Cable Acquisitions

Another method of acquiring hard drives is via a network cable between a machine containing the target media, booted to forensic tool for DOS, and a second machine running forensic tool in the Windows environment. It often provides the best of both worlds, allowing some of the advantages of a DOS boot (Direct ATA access) combined with the enhanced functionality of the forensic tool in Windows.

If you encounter an HPA or DCO, you can place thedrive in a safe lab machine and boot to forensic imaging tool for DOS while connected to your regular lab acquisition machine running forensic tool in a Windows environment. Likewise a network cable acquisition is useful for booting from the suspect's machine when encountering geometry mismatches between a legacy BIOS (usually the suspect's machine) and a new BIOS (usually your lab machine) or when encountering RAID configurations. A RAID can be booted to DOS using its native hardware configuration to mount the logical physical device. The forensic imaging tool will see this RAID as a mounted physical device, enabling acquisition and preview via the network cable connection to forensic tool in Windows.

Sometimes removing a hard drive from a laptop is problematic due to physical access or other concerns, such as proprietary security schemes

marrying the hard drive to the mother-board. If you are able to access the BIOS and control the boot process, a network cable acquisition is a viable option as long as you use a great degree of care and prudence.

A network cable acquisition is also very handy for "black bag" jobs where you have to quickly acquire a target hard drive when the owner or user of the target hard drive is not physically present. With little disturbance to the physical environment, you can connect your examination laptop to the target machine via a network cable, boot to forensic tool for DOS, and preview or acquire if needed.

The forensic tool for DOS doesn't allow direct previewing of the data; however, when connected via network cable for Windows mode, you can see the drive completely in the GUI environment. In circumstances where the presence of certain images or keywords must be present to warrant seizure, a network cable acquisition is very useful. Thus it is a great tool for a variety of field and lab situations.

Before starting a network acquisition, you must keep a few other considerations in mind. The first is the cable. We have been calling it simply a network cable acquisition, but the cable used is more specifically a network crossover cable. A "yellow" crossover cable.Yellow does not necessarily denote a crossover cable in the field. Twisted-pair cable comes in a variety of colors, and those colors can be used to denote cable for a room, subnet, or any other differentiating purpose. Sometimes there is no purpose-someone needed to make a cable and used whatever color was available. Often a crossover cable has a tag or label to denote it, but don't depend on it.

A crossover cable is a network cable used for special purposes, one of which is to enable two computers to have network connectivity by connecting directly to each other via a single network cable. A regular network cable will not work for this purpose. On a crossover cable, on one end only, the positive and negative "receive" pair is switched with the positive and negative "transmit" pair, respectively with regard to the positive and negative to maintain polarity. In this manner, the machines can "talk" to each other over thenetwork crossover cable.

Note : Evidences from Data Centres or large server set ups cannot be immediately acquired. Under these circumstances, the Investigating Officer should ensure that the custodian of the data centre/server setup should be issued with summons under section 91 Cr.PC to either produce

them at the date and time prescribed or to keep them in safe custody for production at later date to be intimated in due course.

528.23. Investigation protocol :

Due to the nature and legality of digital evidence, it is clear that investigations in an automated environment require standard methods and procedures for the following main reasons:

i. Evidence has to be gathered in a way that will accepted by a court of law. This will be easier if standard procedures are formulated and followed. This will also facilitate the exchange of evidence in cases having inter departmental and international ramifications especially if investigators from all departments and countries collect evidence in a similar manner.

ii. Every care must be taken to avoid doing anything which might corrupt or add to the data, even accidentally or cause any other form of damage. The use of standard methods and procedures will diminish this risk of damage. In some cases, it is inevitable that some data will be changed or over written during the examination process. Thus there is a need for a thorough understanding of technology, which is being used for examination and also need for its documentation so that it would be possible to explain the causes/ effects later on in a court of law.

iii. Some of the most important reasons for improper evidence collection are poorly written policies, lack of an established incidence response plan, incidence response training and a broken chain of custody.

The crux of the investigation in Cyber Crimes depends on collection of information from various sources and resources.

In India as per Central Government guidelines all the Online Service Providers should keep certain information about the activity for a stipulated period so that all the Investigating Officers can seek that information by issuing notices under Sec.91 / 101 Cr.P.C.

24. The data to be obtained from the following

i. Internet Service Providers

ii. Mobile Service Providers

iii. Webmail Service Providers

iv. Web Administrators

v. Web Hosters

vi. Domain Name Registrants

vii. Banks and Financial Institutions

viii. Payment Gateways

ix. Courier Services

x. Online shopping merchants

xi. Social Networking Sites

xii. SMS Gateways etc.

25. Basic Information Gathering to Assess the Crime / Incident

i. What is the nature of the incident that occurred?

ii. Who discovered the incident and when? What alerted the person of the incident?

iii. What is the extent of loss, if any?

iv. Who are the people working when the incident took place/discovered?

v. Who are the team members that are usually present?

vi. What applications and software, databases are being used by the organization?

vii. Who are the developers of the applications that are used?

viii. Who provides the support and maintenance for the applications?

ix. Where are the actual servers located?

x. Who has the administrative and super user privileges?

xi. What is the backup policy of the organization?

xii. What kind of backups is taken and how long they are retained?

xiii. What are the services offered by the organization?

xiv. Who are affected by the incident occurred? Were they informed?

xv. What kind of security measures are being used(Antivirus, Firewall, and IDS/IPS)

xvi. Is logging enabled by any of the applications that are being used?

xvii. What levels of access are given to employees?

xviii. What is the information security policy of the organization? How frequently this audited / checked for compliance?

xix. What are the physical security measures in place?

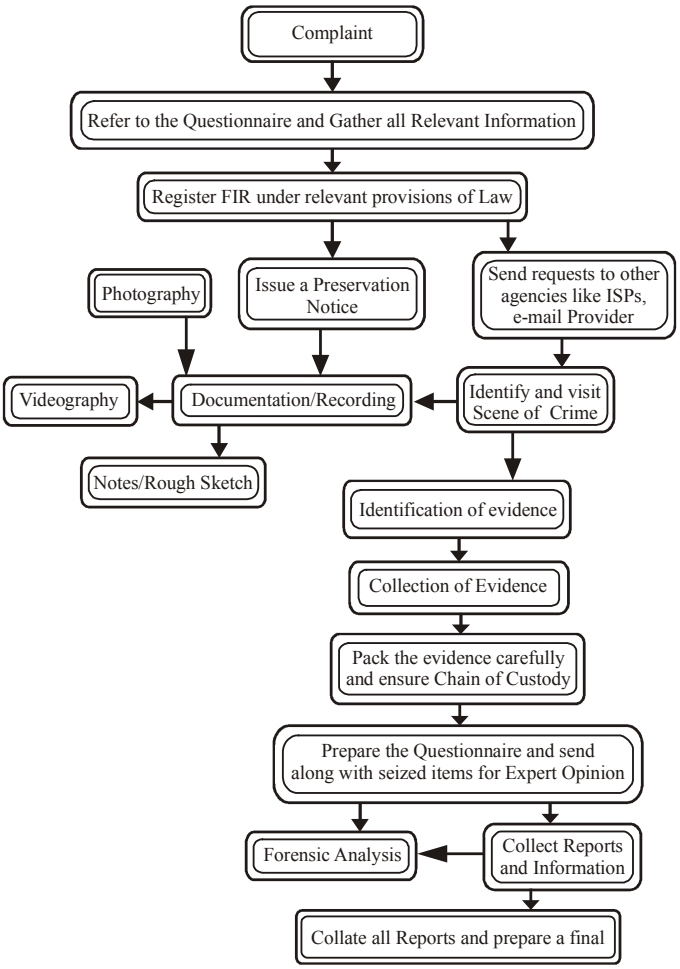
xx. Is there an e-mail server present if so, where is it located?

What are the HR Policies of the organization and, any suspects from the recently left employees?

528.26. Some Tools Used in Cyber Forensics

1) En-Case
2) Forensic Tool Kit (FTK)
3) Password Recovery Toolkit (PRTK)/Rainbow tables
4) Solo 4 imaging tool/Falcon/Dossier
5) Cellbrite/UFED
6) Byte Back
7) Digit
8) Drive Spy
9) Gdisk
10) Ghost
11) Drive Works
12) Linux DD (SMART)
13) Microsoft TechNet
14) Drive Image
15) Cyber Check Suit
16) E-Fence/
17) Write Blockers
18) Crime Mapping and Link analysis tools
19) Packet Sniffing tools
20) Internet Evidence Finder
21) E-Discovery Tools
22) i2 and I APS
23) En-Case portable
24) FRED

25) FREDDIE
26) Black Bag MAC acquisition and analysis tools
27) CODED chip reader etc,


Complaint
Refer to the Questionnaire and Gather all Relevant Information
Register FIR under relevant provisions of Law
Photography
Issue a Preservation Notice
Send requests to other agencies like ISPs, e-mail Provider
Videography
Documentation/Recording
Identify and visit Scene of Crime
Notes/Rough Sketch
Identification of evidence
Collection of Evidence
Pack the evidence carefully and ensure Chain of Custody
Prepare the Questionnaire and send along with seized items for Expert Opinion
Forensic Analysis
Collect Reports and Information
Collate all Reports and prepare a final

528.27. Obscene, Fake profile of a female on a Social Networking Site Investigation :

Section of Law: Section 66 & 67 of Information Technology Act 2000, amendments 2008 (67B in case of minor girl). 465 IPC. Punishment for forgery, 469 IPC. Forgery for purpose of harming reputation & Section 509 of Indian Penal Code 1860.

FIR: Registered and investigated by an officer of the rank of Inspector of Police or above (as per ITAA).

Issues to be kept in mind while seeking / collection of information from complainant / accused / witnesses and service providers: The relevant date and time stamps, shall always be as it is in one copy and another copy by converting time to IST.

Information to be gathered :-

From complainant :

Self attested copies of the printout of the fake profiles printed at the police station and soft copies of the offensive content with date and time stamps,

Self attested copies of the printout of the friendship requests received by the victim's friends and soft copies of the offensive content with date and time stamps.

From Social n/w website company :

Registration, Access details of the fake profile created by the accused. Details may include name, date of birth, IP address, and email IDs given by the accused while creating the fake profile.

From Email Service Provider

If the accused has used any e-mail ID to send out the mails or the social n/w company has provided any e-mail ID uploaded by the accused, you may seek access details of the subject e-mail ID.

From Internet Service Provider :-

The end user details of IP address provided by the social n/w company or e-mail service provider.

Planning the Collection of Evidences from the Accused and / or Scene of offence :

Upon collecting the information about the IP address from the internet service provider or based on local investigations about the relevant scene of offence, the IO to plan his actions for search / seizure as per the legal provisions under Cr PC and IT Act.

Points for Consideration:

- Do not take the assistance of the accused himself to switch on / log in to the system – this will prevent the chances of the accused tampering with the evidence.

- if the systems were to be previewed or accessed to take a decision on whether a system contains incriminating information or not, trained cyber crime investigators adept at using write protect devices or technical experts services have to be used. If in doubt, follow the recommended practices for seizure of digital evidences and pack the systems for later preview or examination.

- Remember that, at the time of seizure of the digital evidence, the monitors of desktops kind of computers and keyboard / mouse do not contain digital evidences. Hence, their seizure is not needed, unless IO is searching for any fingerprints / DNA samples on them. Since this case involves the digital evidence, there is a need of seeking expert opinion. The seized hard disk may be sent to the State FSL.

Forensic Examination :-

MOs to be forwarded through concerned court or SDPO and above for analysis.

Objective: To determine whether seized digital evidence from accused contained evidence regarding usage of the system for creating the offensive photographs of the complainant using morphing software.

The investigator has to request Expert to find out all information pertaining to obscene photographs, access dates, and ownership of the computer. The Investigating officer also to provide the sample photograph of the complainant to identify the morphed photograph in the seized media.

The investigator has to collect report from FSL.

Based on the report accused can be arrested and produce accused in the court for appropriate remand.

Finalization of the Case and Charge sheet :

528.28. Nigerian fraud – Salient features and *Modus Operandi*

Perpetrators of internet crime are attracting the gullible mobile and e-mail users with false promises like winning of Euro lottery, transferring stashed away funds lying in Banks abroad, providing employment with international organizations etc., which are termed universally as Nigerian frauds, because the fraudsters are generally from Nigeria, or of Nigerian origin.

The fact that most of the times the perpetrators are not quickly traced and brought to book – due to the lengthy and cumbersome procedure of Letters Rogatory to the concerned countries – is rendering any stringent action by Police virtually non-enforceable. This enables the perpetrators to continue trapping gullible internet users. There is urgent

need to see that such crime does not continue once it is identified as a crime by Police.

Nigeria scam is also called "419" scam name after an article of the Nigerian Penal Code under which it is prosecuted. It is also called "Advance fee fraud" as the fraudsters squeeze money in the name of advance fees. 419 fraud is an industry, that on some estimates are making hundreds of millions of dollars per year. It employs thousands of crooks. It is not just a few young guys going to an internet café to cheat some foreigners. In many cases, apparently the African internet cafes are owned by the gang bosses, who pay young men hourly wages for "working" in 419-sweat shops.

The Modus Operandi is typically that the victims get unsolicited e-mails and are promised a lottery win or a large sum of money sitting in a bank account or in a deposit box at a security company. Often the storyline involves a family member of a former member of Government of an African country, a ministerial official, an orphan or widow of a rich businessman etc. Some e-mails include pictures of boxes stuffed with dollar bills, scans of fake passports, bank or Government documents and pictures of supposed sender.

The victims are promised a fortune for providing a bank account to transfer the money. If they fall for the scam – they are made to part with thousands and sometimes hundreds of thousands of dollars in "fees" (taxes, insurance, legal fees etc.) before the "partners" finally disappear without trace. The promised fortunes are never delivered as they do not actually exist.

Main storylines of advance fee fraud and other Nigeria-related fraud e-mails :

a) **Fake lottery win**: An e-mail appears that a lottery is won and specific amounts are to be paid which may run into several lakhs of rupees.

b) **Dead foreigner scam**: It is informed that some foreign owner of a bank account in Africa or Asia died without heir and that the victim has to pose as relative for which he would get the lion's share, but for that he will have to pay certain fee.

c) **Unpaid Contractor/Overcharged Government contract**: It is informed that there is an unpaid contract with an African Government and that the victim has to pose as the contractor for which service he will get a slice of it, but first the victims must pay various bribes.

d) **Ex-Kleptocrat scam**: It is informed that a family member of a former head/member of Government somewhere in Africa or Asia has stashed away a few million dollars and seeks the victim's help in moving it,

promising the victims a slice of it, but first the victim has to send money to a securities company or lawyer.

e) **Murdered businessman scam**: It is informed that a family member of a rich businessman in Africa who are stashed away a few million dollars before being killed, seeks the victims help in retrieving the inheritance, promising him a slice of it, but first he must send money to a securities company or lawyer.

f) **Zimbabwean farmer scam**: A farmer or opposition politician from Zimbabwe has stashed away a few millions and seeks help in moving it, promising the victim a slice of it, but first he must send money to a securities company or lawyer.

g) **Dying Widow scam**: A rich widow is about to die from breast cancer and wants to give millions of dollars, but first one must send money to her lawyer.

h) **Dying rich merchant scam**: A rich merchant or oil contractor is about to die from cancer and wants to give millions of dollars, but first one must send money to his/her lawyer.

i) **Yukos Oil scam**: Russian Tycoon Mikhail Khodorkovsky has been arrested, but before that a few millions were stashed away. An associate seeks victims' help in moving it, promising him a slice of it, but first he must send money to a securities company or lawyer.

j) **Company representative scam**: A company in Asia, Europe or Africa looks for individuals to cash cheques and money orders from their customers in their personal bank accounts and forward 90% of the amount by Western Union/Money Gram or to another bank account. Victims are promised 10% of the sum, but since the cheques are foreign origin or stolen, the victims lose the entire amount forwarded.

k) **Credit Card order**: Someone claiming to live in the USA or UK orders goods on a credit card and asks to send them to Nigeria.

l) **Oversized cashier's cheque**: Someone wants to buy a person's car, bike, horse, boat, trailer etc., and will send that person a cheque larger that the sticker value, asking that person to wire the balance to a "shipping agent" or some other person. Other examples included apartment or holidays home rental, purchasing land, hiring a wedding photographer, getting violin lessons etc.

m) **Money recovery**: A law enforcement officer (in Nigeria, FBI: or elsewhere) asks you to contact them about scammers dealt with. They

promise to help the victim recover his stolen money, but first he needs to send more cash.

n) **Fake charity/ministry**: An orphanage, pastor, NGO etc., in a African country needs victim's cash.

o) **Fake employment**: Fraudsters would pose as HR representatives of a reputed firm or institution and make the victim believe that he would be provided employment and the victim would be asked to pay for the legal fee, resident permit processing charges.

p) **Fake training**: An employee of an institution would receive a message that he has been chosen for advanced training and for that he would have to pay the lodging/boarding charges and other reservation charges.

Here are some of the fake reasons given to victims why they should send money:

Legal fees: Many 419 scams involve a fake lawyer (usually a person who calls himself a Barrister or claims to work for a firm whose name includes the word "Chambers"). Beware of any using a @lawyer.com, @justice.com etc., free web mail account who gets introduced in such e-mails.

Insurance: Any lottery prize that is supposedly insured is fake.

Shipping: Real parcel services do not charge $800 and more for delivering a letter. Real lotteries don't ask you to contact a parcel service to arrange for shipping of a check or a winnings certificate that you will have to pay for.

Wire transfer charges: Real banks charge about $40 for an international wire transfer, not several $1000.

'**Drug Free Certificate'**, 'Anti Money Laundering Certificate', 'Terrorist Free Certificate': No such certificates exist in the real world. They are 100% sure evidence of a scam.

Chemical supply charges.

Demurrage charges.

Customs Clearance charges.

Container purchase charges.

Terrorism clearance charges.

Airport management charges.

Accounts opening charges.

Reservation charges.

Resident work permits processing charges.

Most of the transactions that the culprits show would be genuine to instil confidence in the mind of the victim. The inland bank accounts, phone transactions, stipulated formalities would give cozy picture that the whole gamut of fraud is genuine. The list is so creative that not one or the other dupe can be summarized as final.

528.29. SOP for Investigation of 419 Nigerian frauds :

Once such crime is reported case can be registered under section 66D of ITAA 2008, 420, 465 of IPC as many documents fraudster produce are fake and forged.

FIR: Registered and investigated by an officer of the rank Inspector of Police or above (as per ITAA).

Issues to be kept in mind while seeking / collection of information from complainant / accused / witnesses and service providers: The relevant date and time stamps, shall always be as it is in one copy and another copy by converting time to IST.

Information to be gathered :-

From complainant :

Self attested copies of the printout of the e-mail communication printed at the police station and soft copies of the fake content with date and time stamps.

From mobile service provider :

CAF, CDRs of the mobile numbers through which fraudster has contacted the victim. Identify the location of the mobile user preferably during 3 to 4 am in the night to ascertain the residence where he is staying.

From e-mail Service Provider

Details of log in IP address of e-mail ID and to send out the mails to the victim to ascertain the location from where the mails are originated. This can be done in two ways i.e., verifying the full headers of the mails received by the victim or getting information from the mail service provider.

From Internet Service Provider :-

The end user details of IP address taken from the full headers or from e-mail service provider. Here exact time stamp which is converted to IST should be given.

From the relevant Banks :-

Contact the nodal officer of the banks where the money is deposited take the CAF, transaction details, ATM footages, payments to different merchandise units, IP address of account access details if transfer of funds are made online to identify the accused, couriers etc.

Planning the Collection of evidences from the accused and / or Scene of offence :

Upon identifying the address through above collected information, the IO to plan his actions for search / seizure / arrest as per the legal provisions under Cr PC and IT Act.

Points for Consideration :

- Do not take the assistance of the accused himself to switch on / log in to the system – this will prevent the chances of the accused tampering with the evidence.

- if the systems were to be previewed or accessed to take a decision on whether a system contains incriminating information or not, trained cyber crime investigators adept at using write protect devices or technical experts services have to be used. If in doubt, follow the recommended practices for seizure of digital evidences and pack the systems for later preview or examination. All the portable storage media, cell phones , data cards, bank receipts, ATM receipts, assets, SIM cards, ATM, Debit, Credit cards and other related material to be seized based on the confession of the accused.

- Remember that, at the time of seizure of the digital evidence, the monitors of desktops kind of computers and keyboard / mouse do not contain digital evidences. Hence, their seizure is not needed, unless IO is searching for any fingerprints / DNA samples on them. Since this case involves the digital evidence, there is a need of seeking expert opinion. The seized hard disk may be sent to the State FSL.

As in most of the cases foreign nationals are doing this offence, collect the passports, ID cards and inform the concerned embassy, MEA, all the DGPs, FRRO, ADGP(Intel.) through head of the unit.

528.30. Forensic Examination :-

MOs to be forwarded through concerned court or SDPO and above for analysis.

Objective: To determine whether seized digital evidence from accused contained evidence regarding usage of the system for creating and sending such fraudulent mails and other details relevant for the case.

The investigator has to collect report from FSL.

Based on the report accused can be arrested and produce accused in the court for appropriate remand.

Finalization of the Case and Charge sheet.

(G) Poisons and Poisoning

529-1. A poison is a substance which when administered by mouth, by intravenous, intra-muscular or subcutaneous injection or by any other means proves injurious to health or life.

2. Poisons are classified into Corrosives, Irritants, and Neurotics. They are used for homicides and suicides. Accidental deaths also occur due to poison. The Corrosives (strong acids and alkalies) are sulphuric acid, hydrochloric acid, nitric acid, cyanides etc. The symptoms of these Corrosives are burning sensation, acute pain in mouth, larynx, oesophagus and stomach, vomiting of shreddy blood stain material etc.

3. The Irritants are organic, inorganic and metallic substances like phosphorous, chlorine, arsenic, mercury, lead, etc. The symptoms of such poisoning are inflammation of gastro intestinal canal, severe pain over the abdomen associated with or followed by painful vomiting and diarrhoea.

4. The neurotics are dhatura, cyanide, methyl alcohol, strychnine, etc. These affect the brain, spinal chord or lungs and peripheral nerves. They are as phyxiants and peripheral depending on the action they produce on various organs.

5. Poisoning may be acute or chronic. In acute poisoning, symptoms at variance with the normal state of the individual appear suddenly, whereas in chronic poisoning, they do so gradually because of the administration of small doses of the poison on each occasion.

6. Poisons may be taken voluntarily by persons in distress i) to commit suicide, ii) to end a torturous life by married women due to cruelty or dowry harassment,

iii) failure in life, failure in examinations, failure in love relationship;

b) to murder a person, accused may administer poison by force to the victim,

c) to commit theft of articles/property in running trains/buses, poison-laced sweets/biscuits may be given to unsuspecting persons to make them unconscious.

Investigation and Prosecution :-

530. Instructions as well as the precautions in preserving, packing and forwarding samples in Chapter 31 should be read.

1. The Investigating Officer should collect the following information and material in poisoning cases.

(i) Fact and factors that led to administration or consumption of poison - by force, voluntarily or accidentally.

(ii) State of the victim / mental / family / profession / activity / enmity / ailments / availability of medicine

(iii) Chronic disease

(iv) Indebtedness

(v) Sexual jealousy

(vi) Dejection in life/failure in examination

(vii) Suicidal tendency

(viii) Possibility of being victimised/accused

(ix) Symptoms from time to time

(x) Examination of neighbours, friends and servants

(xi) Addiction

(xii) Possession/purchase/borrowing of poison consumed

2. **Look for and collect**:

(i) Leaves, juices, flowers, weeds, seeds, fruits, barks, roots, twigs of suspected vegetable poison from the scene

(ii) Remnants of food/drink

(iii) Un dissolved material

(iv) Containers, spoons, cups, saucers, tumblers, vessels, bottles

(v) Papers, covers, wrappers of poison

(vi) Clothes, bed sheets, towels

(vii) Mortar & Pestle

(viii) Medical chest in bathroom and kitchen, time barred medicines

(ix) Vomiting, purging

(x) Urine in 24 hours

(xi) Blood

(xii) Pet animals or birds suspected to have consumed the foodstuff. Other inmates suspected to have consumed poison - stomach wash

3. **In Fatal cases** :

(i) History of patient

(ii) Stomach wash and its contents

(iii) A loop of intestine

(iv) Lever

(v) Kidney ½ each

(vi) All the Urine present in bladder

(vii) Blood 50 cc

(viii) Lungs in case of gas poisoning

(ix) Brain

(x) Bones

(xi) Hairs

(xii) Finger nail clippings

(xiii) Soil beneath the dead body

(xiv) Any other unexpected material at the scene of occurrence, especially disowned by inmates of the house.

Investigation - Procedure :-

531. While investigating a case of suspected poisoning, the instructions in Chapter 31 should be thoroughly studied. The following procedure should be followed.

1. A physician should be sent for, if the victim is still alive and first aid rendered if possible, pending his arrival. The IO should under no circumstances undertake the administration of first aid, if he is not well acquainted with the subject, but he should strive to obtain medical aid at the earliest opportunity rather than make the case more complicated by his interference and delay.

2. Enquiries about the appearance of the symptoms and their characters should be made with reference to: (A) how long after the taking of food, drink or medicine the symptoms appeared (B) whether the symptoms were intermittent or increased steadily, and (C) the previous state of health of the victim.

3. The search of premises of the victim and the suspect, to discover the poison likely to have been employed, should be undertaken without any loss of time, to pre-empt the culprit or his associates from removing it or other evidence of it, before the police could secure the same.

4. Examination of the vomiting, if any, paying particular attention to its colour. Coffee brown colour with garlic or onion-like odour is an indication of phosphorous poisoning. Black vomits may be due to

sulphuric acid, greenish due to hydrochloric and yellow due to nitric or chromic acid. White vomit turning to black in daylight indicates the administration of silver nitrate. Sharp ammoniacal smell is due to ammonia and vinegar like odour, to acetic acid. Bluish green is characteristic of copper sulphate. Whenever, vomited material is found in connection with a case of suspected poisoning, it should be seized, preserved and forwarded to the Director, APFSL for analysis.

5. Food, drink or medicine suspected to have any connection with the case and the Urine should also be collected and forwarded for analysis.

6. If food is suspected to have been poisoned, enquiries should be made to find out whether any person or persons, other than the one affected has or have been similarly affected more or less simultaneously.

7. Explanations or remarks made by the victim or other persons regarding the onset of the symptoms should carefully be noted.

8. When the symptoms do not conform to ordinary illness and when, in spite of appropriate treatment, they persist; the surroundings of the place where the victim is placed and the conduct of his attendants should be carefully watched. Services of a reliable and dependable consultant should be utilized.

9. Should there exist reasonable grounds for suspicion, the patient should be removed to a hospital or a nursing home where he can be under close observation far removed from his usual surroundings.

10. Mass poisoning : Large number of people either die or become ill due to drinking of contaminated water or eating food or due to drinking adulterated toddy or liquor. The police have an important role to play. Those officers who are responsible for providing safe drinking water will be marked as listed accused for negligence. In adulterated toddy poisoning the owner of the toddy shop, the persons who mixed 'methyl alcohol / diazopham' have to be marked as accused. The excise officials who are supposed to ensure quality will have to be marked as abettors for negligence as doctrine of Absolute liability is applicable.

11. In festivals, '*jatras'* or '*teerthams'* where thousands of people gather, if proper care is not taken by the local authorities or organizers, the water gets polluted and the people drinking such water get the attack of gastro-enteritis or cholera. In order to save the people from a possible danger the Police have to be alert and in advance request the concerned officers of Medical and Health Department, Municipal or Village *Panchayat* authorities to take preventive steps, like chlorination of drinking water. Warning boards should be displayed indicating as to which water is for drinking purposes and which should

not be used for drinking. People should be forewarned to get vaccinated, and the medical authorities should be requested to keep sufficient vaccine and other medicines readily available. Even the Chemist and Druggist shopkeepers should be advised to keep medicines to meet such emergencies.

12. Food gets contaminated when cooked in unclean vessels or brass or copper vessels not coated with tin. Food cooked if exposed to flies or unsold food kept for longer times and then sold, gets spoiled. Unscrupulous traders adulterate edible oils and flour. Eatables cooked with such oils or flour turn poisonous. People consuming such food will develop vomiting and purging that may lead to cholera. At times such mishaps occur in marriages too. Particularly in '*jatras'* etc., the beat constables should be advised to have an eye on such vendors and the matter should be brought to the notice of officials of Health Department for destroying such food articles. Before a festival starts the hotel or shopkeepers should be advised suitably and warned of drastic action for failure to comply with precautions. Police are advised to prevent loss of life and offences connected with health. There should be no hesitation while investigating cases of mass deaths about the culpability of those responsible for administering these preparations.

13. The following are the offences affecting Public Health under the IPC:

A. Negligent act likely to spread infection of disease dangerous to life. Section 269 - Cognizable;

B. Malignant Act likely to spread infection of disease dangerous to life. Section 270 - Cognizable;

C. Adulteration of food or drink intended for sale. Section 272 - Non-cognizable;

D. Sale of noxious food or drink. Section 273 - Non-cognizable;

E. Adulteration of drugs or sale of adulterated drugs is offences under Sections 274 and 275. Both are non-cognizable;

F. Fouling water of Public spring or reservoir. Section 277 - Cognizable;

G. Making atmosphere noxious to health. Section 278 – Non - cognizable;

H. Public nuisance in cases not otherwise provided for. Section 290 - Non-cognizable;

I. In cases concerning Public Health though some offences are Non-cognizable the police in appropriate cases should immediately approach a Judicial Magistrate and request for orders to grant permission to

investigate. Otherwise the offenders will destroy the evidence and at a later stage no evidence would be available.

14. Toddy is adulterated with chloral hydrate, diazophram and methyl alcohol. In smaller doses death may not immediately occur, but if mixed in larger doses, the death will be immediate. Similarly, methyl alcohol is mixed in ordinary liquors to give a 'kick'. The effect of adulterated toddy or liquor poisoning will be most disastrous. People who consume the adulterated toddy or liquor die in large numbers, if immediate medical aid is not provided. Many times people who consume these drinks return home or to their village and then develop symptoms of sickness. Methyl alcohol causes blindness/blurred vision. Immediately on receipt of information, the police should raid the shop, seize the drinks, utensils, tubs, jars, glasses, bottles etc., alert the VRO, the Sarpanch and elders and persuade people to go to the Hospitals. There should be no hesitation to requisition the services of qualified private doctors to rush to the Government Hospital and treat the sick in consultation with the Government Medical Officer.

15. There may be leakage of injurious gases from industries manufacturing various chemicals or using chemicals in the manufacture, of their products, due to defective equipment or human error or negligence. Since the gases spread to large areas quickly, the police have to shoulder greater responsibility in their area. The officials of the industry should be asked to seal the leakage and to close the industry temporarily for inspection by concerned authorities or by experts having technical knowledge. The direction of the wind should be observed to know the direction of flow of gases and concerned police should be alerted. The sick should be immediately shifted to hospital for treatment and the people evacuated from the locality and surroundings. Principle of absolute liability is applicable for the owner / manager of the Industry.

16. If necessary, a case under Section 336 IPC can be registered and subsequently section 304A can be added if there is death. It has been observed by courts that to commence investigation issue of FIR is not a pre-condition. However, at the earliest the FIR should be sent to concerned court mentioning the incident and steps taken by the police till then.

17. In cases of mass poisoning, immediate information should be given to superior authorities, the District and Sub-divisional Magistrates and District Health and Medical Officer. Searches should be conducted and materials, which could be used in evidence, should be seized under *panchnama*. The vomiting and purging should be seized and the doctors should be requested to preserve stomach wash for onward

transmission to Forensic Science Laboratory (FSL). In case of death(s) separate inquests should be conducted on each body. The autopsy of each body can be dispensed with if large number of deaths occurs and the doctor is able to certify the cause of death by conducting post-mortem of a few bodies. However, in every case of death the Government Medical Officer should certify the cause of death. This is necessary later on to claim compensation from Insurance Companies or other benefits from Governmental agencies. The doctor conducting the autopsy should be requested to forward blood, liver, heart, lungs, and intestines to the FSL for detecting the poison. The materials preserved by the doctors and seized by the Police Officers should be sent forthwith to the FSL with the request to take up the examination on priority basis and to give opinion since it would be of help to treat those who are under treatment.

(H) CRIME AGAINST WOMEN AND CHILDREN

532 :

Sec. 376 IPC (Criminal Law (A) Act, 2013)

(a) **Rape ,**

(b) Rape by a Police Officer or a public servant or member of armed forces or a person being on the management or on the staff of a Jail, remand home or other place of custody or women's or children's institution or by a person in the management or on the staff of a hospital and

(c) Rape committed by a person of trust or authority towards the person raped or by a near relative of the person raped. (Cognizable and Non-Bailable)

While (a) Rape is punishable with rigorous imprisonment not less than 7 years but which may extend to life imprisonment, (b) & (c) are punishable with rigorous imprisonment of not less than 10 yrs., but which may extend to remainder of that persons natural life.

"Rape is a heinous offence that destroys the dignity, self esteem and honour of a woman. Society looks upon a rape victim with apathy, hatred and disgrace. It is a blot on her matrimonial prospects if un-married and a disruption in her matrimonial life if married. The rapist deserves the highest condemnation socially and legally," the Supreme Court said.

Sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of

law (*Siriya @ Shri lal Vs State of State of MP 2008, 2008 (4) Supreme 287)*

Ingredients :

Please see PSO 532.6 for a broad based definition of rape.

Investigation :

1) The investigating officer must make careful enquiries to find out if other evidence corroborates the statement of the victim. Corroboration may be by direct or circumstantial evidence, which should, in addition to confirming that the offence was committed, establish that the accused committed it. Courts have generally found no reason to disbelieve the statement of victim unless circumstances exist that prove her complaint to be false. Facilities are afforded during trial or other proceedings that enable the victim to depose fearlessly and to overcome natural and societal inhibitions, by in camera proceedings u/s 327 Cr.PC r/w 37 POCSO Act, 2012 which is mandatory.

2) Immediately after the case of rape is reported, the FIR should be lodged and the victim should be sent to medical examination u/s 164-A Cr. PC at the earliest (within 24 hours) accompanied by a woman police officer. IO should remember that as per the definition of the rape, it is not always necessary that rape is clinically proved. Mere penetration is sufficient to constitute the offence of rape. Hence, absence of semen or injuries on the victim does not mean that rape is not committed. When a woman submits to the commission of rape out of fear or threat, obviously there will be no injuries or marks of resistance. I.O. should also request the medical officer to whom the victim is sent for medical examination, to examine the private parts of victim and for the preserving Semen for DNA examination and submit the proforma report. The examination of private parts of both victim (u/s 164 Cr.PC) and accused (u/s 53-A Cr. PC) for injuries, presence of blood, semen or hair and evidence of a venereal disease should be done by a medical officer. U/s 53 Cr. PC the Medical officer may use such force for sample collection, as is necessary.

3) The scene of offence should be visited, photographed, video graphed and thoroughly examined by IO for any material evidence. Services of CLUES team should be used. The accused should be arrested and sent with his wearing apparel for medical examination if the apprehension is immediately after the commission of offence. If there is delay in arrest, the clothes, which he was wearing at the time of the commission of offence, should be seized and sent for medical examination.

4) **Following are some of the points, to be noted while investigating a rape case**:

532.1 ***In the Case of the Victim*** *(If the victim happens to be a child below 18 yrs age-alter the section of law to Sec 3 r/w 4 of POCSO Act 2012):*

a) Record the statement of victim u/s 161(3) Cr. PC in the presence of Women Police officer through Audio-Video Electronic means.

b) Ascertain the exact time and duration of the incident, place to be identified.

c) Age of victim. If minor, Investigating officer to secure age proof. Preferably birth certificate/ from the school / village birth register/ Hospital record.

d) Whether any used condoms were found at the Scene of offence. If so, they should be seized.

e) the place where the offence was committed, and whether her cries could reach some one in the vicinity;

f) Whether she was drugged, if so, by whom; and the type of drug to be ascertained.

g) Sending the victim for medical examination u/s 164-A Cr.PC to ascertain the following:

i. injuries to the body, their nature and position particularly nail or teeth marks on the cheeks or the other parts of the victim's body, injuries around the wrist, fore-arms or other parts caused by broken bangle pieces;

ii. presence of marks on external clothing when the offence is alleged to have been committed outside a house including torn portions of clothing.

iii. presence of semen or blood stains on her person or on the clothes;

iv. injuries to private parts and presence of blood or semen or any foreign hair in or near the vagina or other parts of the body or on the clothes.

v. in the case of young and unmarried girls, rupture of hymen and whether the rupture is recent;

vi. whether the victim has been infected with any venereal diseases, and

vii. the condition of pubic hair, whether mixed with semen or blood,

viii. any other relevant forensic evidence to establish rape.

ix. Filing requisition in the Court for recording Sec 164 Cr.PC statement (Mandatory as per 2013 Act)

h). Write to Collector / PD, ICDS / District Legal Services Authority for payment of compensation in terms of GO Ms. No. 28. of 2011 of WCD, G.O. Ms. No.43 of Home (Courts -B) Dept., Dated:15.04. 2015.

532.2 In the case of accused

a) Sending the accused to the Hospital for Medical examination u/s 53-A/53 Cr. PC to ascertain-

b) age and physical development;

c) injuries to his person, face, neck, and in the neighborhood of genitals;

d) tearing of clothes;

1. Presence of blood or semen stains on his person or clothes or pubic hair. Blood and saliva should be collected for DNA, if necessary.
2. injuries to the male organ ;
3. Potency test;
4. Collecting samples for DNA profiling;
5. Presence of foreign hair on the body/clothes of the accused;

e) Tower Location of his cell phone and that of the victim

f) Any SMSs, pornography, video graphy taken by the accused to be documented.

532.3. At the place of occurrence (Scene of Crime-Principle of Exchange) :

a) Photograph the Scene of offence and surroundings

b) Marks of struggle like trampling of the ground if it is grassy or marshy.

c) broken bangle pieces, liquor bottles, cigarette butts. Remember finger points can be developed on liquor bottles and later compared with the accused. Similarly, saliva in cigarette butts contain DNA. Same can be extracted and matched with the accused.

d) The scene of offence is photographed and video graphed to convince the court as to how the scene of offence is whether secluded one or otherwise, affording privacy for the accused to indulge in the rapacious attack on the victim.

e) Bar on publication of name of Rape victim.

4 A. Precautions should be taken to ensure that the identity of victim is not revealed in any publication. Violations in this regard are liable for penal action u/s 228 A IPC.(Cognizable/Bailable/Non-compoundable)

B. Do not subject the victim to too many embarrassing questions. Examine and record her statement in the presence of a female Police officer/Woman officer (civil) and video record as per Sec 161 (3) Cr.PC

C. The victim (duly covering up her face) should be asked to show the exact scene of offence. This should be done in such a way that she is least exposed to the public gaze. Press should not be allowed.

D. Collect the wearing apparel of the victim at the time of commission of offence under *panch*anama and send immediately for medical examination for presence of seminal stains.

E. In case of threatening of witness to give false evidence a case should be registered u/s 195-A IPC as the offence is cognizable and non-bailable and action taken accordingly to arrest the accused, protect the victim and her parents from the possible intimidation, threats, coercion and reprisals by the accused or their supporters. Also render help in getting suitable compensation to the victim and for her rehabilitation.

F. Investigation of child Rape cases has to be completed within 3 months from date of F.I.R. as per Sec. 173 1 (A) Cr.PC i.e, I.O should be able to obtain DNA finger printing report and file charge sheet.

G. Tower location of the cell phones of accused and the victim. Other digital / electronic evidence like SMSs, Facebook A/c etc., to prove that the accused is connected to the crime.

H. The determination of blood groups may prove to be of invaluable help in the detection of rape cases. The DNA finger printing provides convincing scientific proof in cases of rape. Wherever necessary, the samples should be sent for DNA analysis and opinion in the manner prescribed in Chapter 31.

532.4 Trial related Amendments :

1. If any Judge / Public Servant is involved in rape case there is no need to obtain prosecution sanction orders u/s 197 Cr.PC from Government. Charge sheet can be laid like any other offender.

2. In-camera Trial as per Sec. 327 Cr.PC /Sec. 37 of POCSO Act

3. In Audio-video electronic trial in cases accused is in different State / Jail as per Sec. 275 (1) Cr.PC.

4. Trial to be completed by Sessions Court within 2 months from the date of taking cognizance as per Sec,. 309 (1) Cr. PC. i.e, SC No.

will be given on scrutiny of investigation record and 2 months is counted from that date.

5. Presumption of absence of consent (Sec. 114 A IE Act) Defence advocate is barred from asking certain questions regarding relevancy of consent (Sec, 53A IE Act). Quality of consent (Sec 146 IE Act) and Sec 151, 152 IE Act.

6. Evidence of Character or previous sexual experience not relevant (Sec. 53 A IE Act).

7. As per Sec 372 Cr. PC the victim is entitled to prefer an appeal.

8. Latest Supreme Court decision on formation of committees in Acquittal cases :

The Supreme Court in Criminal Appeal No.1485 of 2008, *State of Gujarat vs Kishanbai* of January 7th, 2014 (pertaining to slip-shod perfunctory investigation of rape and murder of a 6 yr old girl) directed the Home department of every state to formulate a procedure for taking action against all investigating and prosecuting officers responsible for failure of a prosecution case on account of sheer negligence or because of culpable lapses, must suffer department action.

532.5 (B) Definition of Rape :

According to the definition in section 375 IPC (Substituted by Act 13 of 2013, dt.2-4-2013, w.e.f.3-2-2013):

A man is said to have committed "rape" if he -

(a) Penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:-

First - Against her will.

Second - Without her consent.

Thirdly - With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly - With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly - With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she given consent.

Sixthly - With or without her consent, when she is under eighteen years of age.

Seventhly - When she is unable to communicate consent.

Explanation 1 - For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2 - Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act :

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1 - A medical procedure or intervention shall not constitute rape.

Exception 2 - Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.

532.6

(1) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine.

(2) More aggravated forms of rape when committed by Public servants or persons having custody have been defined in IPC as mentioned below with enhanced punishments, when protectors turn into predators

Whoever, -

(a) being a **Police officer**, commits rape -

(i) within the limits of the police station to which such police officer is appointed; or

(ii) in the premises of any station house; or

(iii) on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or

(b) being a **Public servant**, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant; or

(c) being a **member of the armed forces** deployed in an area by the Central or a State Government commits rape in such area; or

(d) being on the **management or on the staff of a Jail, remand home** or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or

(e) being on the **management or on the staff of a hospital**, commits rape on a woman in that hospital; or

(f) being **a relative, guardian or teacher of**, or a person in a position of trust or authority towards the woman, commits rape on such woman; or

(g) commits rape during communal or sectarian violence; or

(h) commits rape on a woman knowing her to be pregnant; or

(i) commits rape on a woman when she is under sixteen years of age; or

(j) commits rape, on a woman incapable of giving consent; or

(k) being in a position of control or dominance over a woman, commits rape on such woman; or

(l) commits rape on a woman suffering from mental or physical disability; or

(m) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or

(n) commits rape repeatedly on the same woman, shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

Explanation. – For the purposes of this sub-section, -

(a) "**Armed forces**" means the naval, military and Air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary

forces that are under the control of the central Government or the State Government;

(b) "**Hospital**" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

(c) "**Police officer**" shall have the same meaning as assigned to the expression "police" under the Police Act, 1861;

(d) "**Women's** or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children.

(If the victim is a child it amounts to Aggravated Penetrating Sexual Assault punishable u/s 5 r/w 6 of POCSO Act 2012).

532.7. Related Cr.PC amendments -Duty of the Investigating officer :

In the Cr. PC (Amendment) Act, 2013, certain procedures are made mandatory and non-compliance entails penal action against the Police officer(Ex.Sec.166-A IPC r/w 166-A Cr. PC).

Sec.154 Cr.PC: Provided that if the information is given by the woman against whom an offence under section 326A, 326-B, 354, 354A to 354D, 376, 376, 376-A to 376-E, 509 of IPC is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

(a) ….....(for mentally or physically disabled)

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause(a) of Sub-section(5A) of section 164 Cr.PC as soon as possible.

532.8. Punishment for failure to register FIR

Sec.166-A IPC: Failure to register F.I.R., whoever, being a public servant,-

(c) fails to record any information given to him under sub-section(1) of Sec.154 Cr. PC in relation to cognizable offence punishable u/s 326-A, 376, 376-A to 376-E of sec.509 IPC., shall be punished with rigorous imprisonment for a term which shall not be less than Six months but which may extend to two years, and shall also be liable to fine. (Cognizable, bailable)

The SHO shall register the case irrespective of the jurisdiction, take up investigation and transfer the case to the concerned Police station. Any escapist tendency entails penal action.

532.9. Victim-friendly procedures :

Sec.157 Cr. PC: Statement to be recorded at residence / place of choice of the Victim.

Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality

I.O is barred from calling the victim to PS for recording her statement.

532.10. Audio-video recording of Statement :

Sec.161 Cr.PC :

Provided further that the statement of a woman against whom an offence under section 354, 354-A to 354-D, 376, 376-A to 376-E, 509 IPC is alleged to have been committed or attempted shall be recorded, by a woman police officer or any woman officer. Sec.161(3) Cr.PC enables Police officer to Video-record statement of witnesses/Victim.

I.O has to use the same language as spoken (Verbatim) by the victim. I.O should not type any translated version. He should call, in case of victim from other states, a person who know the language.

532.11. Audio-video recording of Statement by Court : Sec.164 Cr. PC :

Woman Police Officers presence while recording statement. 5A(a) In cases punishable under section 354, 354-A to 354-D, 376, 376-A to 376-E, 509 IPC, the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section(5), as soon as the commission of the offence is brought to the notice of the police:

532.12. Compulsory Medical Examination of rape victim :

Sec.164-A Cr. PC:

Medical examination of the victim of rape within 24 hrs. Medical officer has to take consent and record it in his report that the victim consented for medical examination.

532.13. Compulsory Medical Examination of accused of rape :

Sec.53-A Cr. PC: Examination of person accused of rape by medical practitioner.

When a person is arrested on a charge of committing an offence of rape or an attempt to commit rape and there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of such offence, it shall be lawful for a registered medical practitioner employed in a hospital run by the Government or by a local authority and in the absence of such a practitioner within the radius of sixteen kilo meters from the place where the offence has been committed by any other registered medical practitioner, acting at the request of a police officer not below the rank of a Sub-Inspector, and for any person acting in good faith in his aid and under his direction, to make such an examination of the arrested person and to use such force as is reasonable necessary for that purpose.

532.14. Investigating Officer to finalise child-rape investigation within 3 months

Sec.173 Cr. PC: Time limit for investigation of child rape cases.

1A) The investigation in relation to rape of a child may be completed within three months from the date on which the information was recorded by the officer-in-charge of the Police station.

2h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under sections 376, 376-A to 376-E IPC.

532.15. Government Prosecution sanction orders are not necessary when public servants are the accused :

Sec.197 Cr. PC: Prosecution of Judges and public servants.

Explanation.- For the removal of doubts it is hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 166-A, 166-B, 354, 354-A to 354-D, 370, 375, 376, 376-A,376-C,376-D, 509 IPC.

If any public servant committed the above offences, there is no need to write to the Government for prosecution sanction orders.

Limitation period for marital rape complaint :

Sec.198 Cr. PC. Prosecution for offences against marriage.- Marital Rape:

(6) No court shall take cognizance of an offence under section 376 IPC, where such offence consists of sexual intercourse by a man with his own wife, the wife being under eighteen years of age, if more than one year has elapsed from the date of the commission of the offence.

532.16. Marital rape during separation- Victim to file complaint in court :

Sec.198-B Cr.PC. Cognizance of offence- Marital rape during separation.

No court shall take cognizance of an offence punishable under section 376-B of IPC where the persons are in a marital relationship, except upon prima facie satisfaction of the facts which constitute the offence upon a 'complaint' having been filed or made by the wife against the husband.

SHO has to file FIR only after he receives endorsement from the court for investigation.

532.17. Victim friendly trial mandate :

Sec.273 Cr. PC: Evidence to be taken in presence of accused. Provided that where the evidence of a woman **below the age of eighteen years** who is alleged to have been subjected to rape or any other sexual offence, is to be recorded, the court may take appropriate measures to ensure that such woman is not confronted by the accused while at the same time ensuring the right of cross-examination of the accused.

Public prosecutor/Addl. PP should take note of this special provision.

532.18. Rape trial to be completed within two months time :

Sec.309 Cr PC: Power to postpone or adjourn proceedings.....

Provided that when the enquiry or trial relates to an offence u/s 376, 376-A to 376-D IPC, the inquiry or trial shall, as far as possible be completed **within a period of two months** from the date of filing of the charge sheet.

Public prosecutor/Addl. PP should raise objection if the accused on some pretext or the other is trying to procrastinate the trial by filing timely petition in the trial court.

532.19. In camera trial - Procedure:

Sec.327 Cr. PC: In-Cameral Trial in rape cases r/w 37 POCSO Act, 2012, in child rape(Aggravated Sexual Assault) cases. G.O.Rt.No.630, Law(LA & J-Home Courts-C) Dept.,dt.23-3-2013 appointing 1st ADJ in the Districts, 1st MSJ in Vishakhapatnam and Vijayawada Commissionerates to conduct trial under POCSO Act, 2012.

(2) Notwithstanding anything contained in sub-section(1), the inquiry into and trial of rape or an offence under section 376, 376-A to 376-E of IPC **shall be conducted in camera**:

Provided that the Presiding Judge may, if he thinks fit, or on an application made by either of the parties, allow any particular person to have access to, or be or remain in, the room or building used by the Court;

Provided further that in camera trial shall be conducted as far as practicable by a woman Judge or Magistrate;

Where any proceedings are held under sub-section (2), it shall not be lawful for any person to print or publish any matter in relation to any such proceedings, except with the previous permission of the Court;

Provided that the ban on printing or publication of trial proceedings in relation to an offence of rape may be lifted, subject to maintaining confidentiality of name and address of the parties.

532.20. Victim compensation – Role of DLSA:

Sec.357-A Cr. PC: Victim compensation scheme.(of Govt. of A.P).

Refer : G.O. Ms. No. 28,WCD & SC Dept.13-6-2011, Govt. of A.P.(Setting up Relief and Rehabilitation Fund for victims of atrocities-Consolidated instructions and modalities for providing relief to the victims of atrocities-Orders-Issued) G.O.Ms. 43 Home (courts-B) Dept., Dt: 15.04.2015 regarding, victim compensation scheme u/s 357 A Cr.PC.

Action : SsP/CsP/ DCsP / SsRP have to write to Secretary, Legal Services Authority for sanction of relief amount to the victims under GO Ms.No. 43 Dated :15.04.2015 or to Collector under GO Ms.No. 28/2011, of WCD Department.

Victim Compensation :"*Lex non debet deficere conquerentibnus in justicia exhibenda*".

The law wills that in every case where a man is wronged and damaged, he shall have the remedy.

Sec.357-B Cr. PC: Compensation to be in addition to fine under sec.326-A or 376D of IPC.

The compensation payable by the State Govt. u/s 357A shall be in addition to the payment of fine to the victim u/s 326-A or Sec.376-D IPC.

532.21. Free of cost Medical treatment by Hospitals for acid attack / rape victims.

Sec.357-C Cr.PC: Treatment of victims.

All hospitals, public or private, whether run by the Central Govt., the State Govt., local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered u/s 326-A, 376, 376-A to 376-E IPC, and shall immediately inform the police of such incident.

CsP/SsP should make wide publicity to this provision and inform officially the Hospitals located in their jurisdiction.

532.22. Penal Liability of Hospitals for non-treatment :

Sec.166-B IPC: Punishment for non-treatment of victim by Hospital Management.

Whoever, being in charge of a hospital, public or private, whether run by the Central Govt., the State Govt., .local bodies or any other person, contravenes the provisions of Sec.357C of Cr. PC shall be punished with imprisonment for a term which may extend to one year or with fine or with both. The Investigating officer has to file a separate F.I.R. by recording Statement of the victim of inaction by the Hospitals.

532.23. Liability of the Print media :

Sec.228-A IPC: Disclosure of identity of the victim of certain offences, etc. – Culpability of the Print/Electronic Media.

Whoever, prints or publishes the name or any matter which may make known the identity of any person against whom an offence u/s 376, 376-A to 376-E is alleged or found to have been committed (hereafter in this section referred to as the victim)shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

Evidence : On the other hand, under Sec.22 of POCSO Act, 2012, the media is law-bound to report the offence of Sexual assault (Sec.7 r/w 8 – Aggravated Sexual Assault(Sec.5 r/w 6)/Penetration Sexual Assault(Sec.3 r/w 4) to the local Police on coming to know of such incident. It is a mandatory provision.

532.24. Role of Prosecutors during trial :

Prosecutors should remember the Evidence Act Provisions and intervene appropriately during Trials. The SsP/CsP in the crime meeting along with PPs/Addl. PPs/APPs deliberates these provisions.

a) Sec.53-A IEA: Evidence of Character or previous Sexual experience not relevant in Sec.354, 354-A to D, 376, 376-A to E IPC cases.

ii) Sec.114-A IEA: Presumption as to absence of consent in certain prosecutions for rape.

In a prosecution for rape under clause (a) to (n) of sec.376 IPC, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the woman alleged to have been raped and such woman states in her evidence before the court that she did not consent, the court shall presume that she did not consent.

iii) Sec.146 IEA: Question lawful in cross-examination.

Provided that in a prosecution for an offence u/s 376, 376A to 376-E of IPC or for attempt to commit any such offence, where the question of consent is an issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual experience, of such victim with any person for providing such consent or the quality of consent.

iv) Sec.151 IEA : The Trial Court may forbid indecent/ scandalous questions.

a) Sec.152 IEA : The trial Court shall forbid questions intended to insult or annoy the witness to be needly offensive.

532.25. Sec.376 (A) IPC: Person committing an offence of rape and inflicting injury which causes death or causes the woman to be in a persistent vegetative state. (Cognizable and Non Bailable)

Ingredients

For causing death or resulting in persistent vegetative state of victim

Investigation :

i. SDPO has to personally investigate.

ii. Procedure for 376 IPC is applicable. Obtain her audio-video electronic statement u/s 161 (3) Cr.PC and get her statement audio-video recorded u/s 164 Cr.PC (Mandatory)

iii. Arrest the accused based on preliminary investigation. Deploy 'dog squad' to track him if he is hiding in the village/town/some house of friends nearer to the scene.

iv. Obtain medical certificate as to the extent of injuries caused to the victim and their effect on her physical, mental and emotional health. Get her dying declaration recorded.

v. Obtain a report from the institute of Mental Health, the extent of mental injury/trauma caused to her. Take her photographs and enclose them in the remand CD as well as in the charge sheet for visual appreciation of the court.

vi. Take the services of professional counselor to detraumatize her.

vii. In case of death, obtain the death certificate and cause of death including DNA finger printing.

viii. Weapons/Instruments used by the accused should be sent to FSL for a report and link the weapons of offence to the crime.

ix. If the accused is unknown, after the arrest of accused, file requisition before Magistrate for conducting Test Identification Parade u/s 54 A Cr. PC.

x. If the victim can identify and give descriptive particulars of the accused (She may not know the name) mention the same in the FIR and CD. In such cases Test Identification Parade may not be necessary.

xi. Provide victim support and Victim Compensation.

xii. If victim is a child involve DCPU (District Child Protection Unit) of WCD Department.

532.26. Punishment and Trial

i. Not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's nature life or with death.

ii. Trial by Court of Sessions – ensure quick schedule and produce evidence urgently within 2 months as per Sec. 309 (1) Cr. PC. Closely monitor the trial, be present in court.

iii. If victim is 'minor' trial procedure as envisaged in Sec. 273 Cr. PC (Victim is not confronted by the accused during trial) should be followed .

iv. Be wary of adult offenders pleading leniency under Juvenile Justice Act by producing false date of birth proof to show that they are below 18 yrs when the offence was committed and hence to be tried by Juvenile Justice Board.

532.27. Sec.376 (B)IPC : Sexual intercourse by husband upon his wife during separation[Cognizable Offence (but only on the compliant of the victim), Bailable].

Ingredients

i. Sexual intercourse by husband upon his wife during separation. Cognizance should be taken upon a 'complaint' by wife in the court (as per Sec.198 B Cr.PC) and that complaint will be endorsed to local Police for investigation.

ii. SHO cannot register a case directly without court's endorsement.

Investigation

i. All procedures for Sec.376 IPC investigation may be followed. SHO should elicit circumstances leading to separation between wife and husband.

ii. This section is not applicable to 'live-in relationships' where a man and adult woman live under one roof.

iii. Issue notice to accused u/s 41 A Cr.PC for appearance before the I.O.

iv. Produce proof of marriage.

v. Record statement of mediators who could have intervened to set right the marriage.

Punishment and Trial

i. Not less than 2 years but up to 7 years

ii. Trial by Court of Sessions

iii. In prosecution for an offence u/s 376, 376 A, 376 B, 376 C, 376 D, or 376 E IPC, where the question of consent is an issue, not permissible to put questions of General immoral character or previous sexual experience.

532.28. Sec. 376 (C) IPC: Sexual intercourse by a person in authority (Cognizable and Non Bailable)

Ingredients

i. Sexual intercourse by a person in authority

ii. In a position of authority

iii. A public servant or Superintendent or manager of a jail, remand home or other place or

iv. A women's or children's institution or management of hospital or staff of a hospital

Investigation

i. Procedure laid down in sec 376 IPC be followed

ii. Investigating Officer should establish that the accused was in a position of authority like SHO/staff of a Police station, Superintendent/Staff of Juvenile Home, Jail Superintendent/Staff, Hospital staff authorities etc., and the relationship of victim i.e., why she is kept under that institution.

iii. Write to the H.O.D (Head of Department) regarding involvement of accused into the crime and that he has been remanded to Judicial custody. Head of the Department has to take disciplinary action as per APCCA Rules.

Punishment and Trial

i. Not less than 5 years but which may extend to 10 yrs and with fine.

ii. Trial by Court of Sessions.

532.29. Sec. 376 (D) IPC: Gang rape (Cognizable and Non Bailable)

Ingredients

i. Gang Rape

ii. Woman is raped by one or more persons

iii. Constituting a group or

iv. Acting in furtherance of a common intention.

Investigation :

1. Procedure same as in Sec. 376 IPC.
2. All the accused persons should be sent individually and separately for medical report of potency test etc u/s 53, 53 A Cr. PC for (i) Potency Test, (ii) DNA Sample , (iii) examination of under garments for presence of seminal stains, hair etc.
3. Tower location of cell phones of accused and the victim should be taken, as evidence u/s 65 B Indian Evidence Act.
4. Used condoms to be collected and sent for DNA finger Printing along with those of the accused as many accused are using condoms while committing rape.
5. All cell phones / video cameras (if used) should be seized, data of last calls made to each other and SMS sent to each other accused, is to be extracted. All this information is to be mentioned in the charge sheet to prove common intention.
6. If any intoxicating material was used, evidence is to be gathered to that effect .
7. Victim should be counseled by psychologists and mental health report obtained from Superintendent of Mental hospital to elicit the degree of mental trauma.
8. Test Identification parade should be held, if initially accused are unknown.

9. Measures to be taken to contest all bail applications.

Punishment and Trial :

i. Not be less than 20 yrs, which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine.

ii. Trial by Court of Session.

532.30. Sec. 376 E IPC: Repeat offenders (Cognizable and Non Bailable)

Ingredients :

a. Repeat offenders

b. Person should have been convicted earlier of an offence punishable under section 376 or 376A to 376D.

(Certified copies of conviction particulars should be obtained from the concerned trial Court and filed along with charge sheet.

Investigation :

SDPO is the Investigating Officer

1. Procedure same as in Sec. 376 IPC
2. Collecting details of under investigation (UI) or pending Trial (PT) cases convicted cases against the same accused in the same District or elsewhere in India.
3. Presenting such information to court in the charge sheet with relevant FIRs, charge sheets, Court Judgments (even if acquittal) etc.,
4. Ensure victim protection as often repeat offenders resort to physical threats and are aggressive in nature.

Punishment and Trial :

a. Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.

b. Trial by Court of Sessions

533 : Investigation of cases of POCSO Act, 2012

As per Chief office RC.No.60/M3/2014, dt.21-01-2014, the following officers have to investigate the following sections of POCSO (Protection of Children from Sexual Offences, Act 2012).

Sl.No	Rank	Section of POCSO Act
1	SDPO	(i) Sec 5 r/w 6 (Aggravated penetrative sexual assault) (ii) Repeat offender involved in PSA u/s 3 r/w 4
2	CI/Inspector	(i) Sec 3 r/w 4 (Penetrative sexual assault) (ii) Sec 13 r/w 14 (Use of child for pornographic purposes)
3	Sub-Inspector of Police	a) Sec 7 r/w 8 (Sexual assault) b) Sec 9 r/w 10 (Aggravated sexual assault) c) Sec 11 r/w 12 (Sexual harassment)

All Police Officers should understand and follow the following 12 basic principles while investigating Child Sexual Abuse cases ;

1) Principle of right to life and survival of the child victim.
2) Protecting the best interests of the child.
3) The right to be treated with dignity and compassion.
4) The right to be protected from discrimination.
5) The right to special preventive measures.
6) The right to be informed of legal processes involved and other case details.
7) The right to be heard and to express views and concerns.
8) The right to effective assistance at all times till completion of trial.
9) The right to privacy protecting identity of victim and precluding re-victimization.
10) The right to be protected from hardship during the justice process.
11) The right to safety of the child- Protecting child from any risk before, during and after the justice process.
12) The right to compensation, relief and rehabilitation.

533.1

Sec.3 r/w 4 of POCSO Act 2012 (Cognizable and Non Bailable)

Ingredients :

Penetrative sexual assault (PSA)

a. Penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child

b. Inserts, to any extent, any object or a part of the body, not being the penis

c. Manipulates any part of the body of the child

d. Applies his mouth to the penis, vagina, anus, urethra of the child

Investigation

i. Should be investigated not below the rank of Inspector of Police. Scene should be visited by the I.O and should be video and photographed.

ii. Statement of the child shall be recorded at the residence or at the place of his/her choice and while recording he shall not be in uniform (Sec.24 of POCSO Act). Use Audio-video electronic form as per Sec. 161 (3) Cr.PC and produce before magistrate for recording statement u/s 164 Cr.PC.

iii. Arrest the accused immediately and send him for medical examination u/s 53, 53 A Cr.PC for (i) Potency test, (ii) DNA finger printing sample collection, (iii) examination of clothes etc (iv) bodily injuries, to connect offender to the Crime.

iv. Age proof of the child-Hospital/School record should be gathered immediately.

v. A Woman police officer not below the rank of SI should be present and identity of victim should be protected from media. (Sec.24 of POCSO Act).

vi. Medical examination of the victim should be done by a woman medical officer (Sec.27 of POCSO Act)

vii. A court of sessions to be a Special court for speedy trial under this act (In AP all 1st Addl. Dist & Sessions Judges in Districts and 1st MSJ in Visakhapatnam & Vijayawada cities are specially designated)

viii. Circumstantial evidence like child being taken / spotted with accused etc. to be gathered.

ix. Direct evidence/Eyewitnesses should be recorded both audio-video electronic means u/s 161 (3) Cr. PC and 164 Cr. PC

x. Digital evidence like Mobile phones, SMSs Videography etc (Sec 65B Evidence Act) to be obtained.

xi. Special court shall not permit aggressive questioning or character assassination of the child during trial.

xii. Court shall allow a family member, a guardian, a friend or a relative to be present in the court and identity of the child should not be revealed (Sec.33 of POCSO Act)

xiii. In addition to the punishment direct payment of compensation as may be prescribed to the child.(Sec.33 of POCSO Act)

xiv. Trials to be conducted in camera(Sec.37 of POCSO Act) (Sec 327 Cr.P.C)

xv. The evidence of the child shall be recorded with in a period of thirty days of the court taking cognizance of the offence and complete trial within one year (Sec.35 of POCSO Act.)

xvi. Burden of proof lies on the accused.

Punishment and Trial : In-camera Trial

a. Shall be punished with imprisonment of either description for a term which shall not be less than 7 yrs but which may extend to imprisonment for life, and shall also be liable to fine.

b. Trial by 1st Addl. District and sessions Judge in Districts and 1st MSJ in cities in AP.

c. Special Public Prosecutor is empowered to conduct trial (G.O. Rt. No. 2364, dt. 23-12-2013 Law (LA&J-Home - Courts A1) Dept.

533.2 Sec 5 r/w 6 of POCSO Act: Aggravated Penetrative Sexual Assault (APSA)

This section is introduced to punish the 'law breakers' who are perpetrators of crime. The objective is that a law protector should not become a perpetrator of crime. SDPO / Dy. SP is the I.O.

Investigation

Follow the same procedure as enlisted in rape case investigation. Seize the Cell phones of the accused and scan them for incriminating material.

a. Police Officers committing APSA on a child within the limits of the PS or PS premises, in the premises of any Police station, in the course of his duties or otherwise, and where he is known or identified as Police Officer.

b. I.O.to prove that the accused is a Public servant.

c. I.O.to inform the Head of Department regarding involvement of the accused, duly sending FIR, remand report etc., to take departmental action parallely.

d. I.O.to gather electronic evidence regarding Cell phone tower location of the accused and the victim and obtain Sec.65-B I.E. Act proof.

e. Similar circumstances in respect of members of Armed forces (Army, Navy, Air force, Coast Guard etc.), Security forces (CPRF, BSF, ITBP, CISF, SSB etc) committing APSA.

f. Similarly APSA on child by Public servant, or by staff of Jail, remand home, protection home, observation home or other place of custody or care and protection etc.

g. APSA on child by management or staff of a hospital (Govt. / Private). Actual spot where APSA occurred.

h. APSA on child by staff of an educational institution or religious institution (Actual place to be identified by the I.O)

i. APSA on child by more than one person i.e gang penetrative sexual assault with common intention. (Sec 34 IPC)-Follow principle of Joint liability. Collect direct/circumstantial evidence of any pre-plan (SMSs, Conversations just before the offence) or meeting of minds of all the accused persons to commit the offence. Describe vulnerability of the victim child in the given circumstances (*Sachin Jana vs State of West Bengal 2008, Sec 390:2008)*

j. APSA on child by using deadly weapons (I.O to seize such deadly weapons)

k. APSA on child causing grievous hurt, causing injury to sexual organs (Obtain such medical report)

l. APSA on child making her mentally ill or making her pregnant, inflicts HIV.

m. APSA on child by same person repeatedly.

n. APSA on child below 12 yrs age (Age certificate to be secured)

o. APSA on child being a relative through blood, adoption, marriage or guardianship or having domestic relationship or shared house hold.

p. APSA on child by institutions providing services to the child (Why the child is admitted in the institute to be mentioned in CD)

q. APSA on child knowing that she is pregnant (Medical certificate of pregnancy and rape).

r. APSA on child in the course of communal or sectarian violence (Individual /gang to be identified)

s. APSA on child making the child to strip naked in the public.

Punishment

i. The offence is punishable with rigorous imprisonment for a term which shall not be less than 10 yrs but which may extend to imprisonment for life and liable for fine.

ii. In camera trial.

Victim Support

1. Provide victim support, If he/she is vulnerable place her in safe custody.
2. Write to Secretary, Dist. Legal Services Authority for payment of compensation/granting interim relief fund.
3. Write to Project Director/ICDS or to the Collector for payment of Interim relief fund.

533.3. Sec. 7 r/w 8 of POCSO Act: Sexual Assault

Whoever, with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of the child of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault.

1. I.O has to prove 'physical contact' and 'sexual intent'.
2. Record Statement u/s 164 Cr.PC.
3. I.O has to follow the procedure laid down in PSO 533.1
4. SI of Police is the Investigation Officer
5. Sec 8: Imprisonment not less than 3 yrs but which may extend to five years.
6. In-camera trial.

533.4. Sec. 9 r/w 10 of POCSO Act: Aggravated Sexual Assault

i. SI of Police is the Investigation Officer

ii. Committed by Police Officer/ Public Servant is punishable with imprisonment of not less than 5 yrs. which may extend to 7 yrs.

iii. In camera Trial

534 : Acid Attack Cases:

Sec. 326 (A) IPC : (Gender Neutral) Voluntarily causing grievous hurt by use of acid etc. (Cognizable and Non-bailable)

To be investigated by Inspector of Police under close supervision of SDPO as it is a grave crime.

Ingredients :

i. Voluntarily causing grievous hurt by use of acid resulting in burns, disfigurement or disability.

ii. Causing permanent or partial damage or deformity.

Investigation

i. Immediate admissions in Special Burns ward to preclude spreading of infection. Send requisition to Magistrate for recording dying declaration depending upon percentage of burns.

ii. As acid is likely to sprinkle on the accused also, while throwing on victim, immediate arrest would link the accused to crime scene. His presence at scene can be ascertained from Cell phone tower location or CCTV footage (in cities).

iii. Oral evidence of the victim.(Sec.60 of Evidence Act). Recording evidence through audio-video electronic means u/s 161 (3) Cr. PC. Photographs of victim to be sent to court with remand CD.

iv. Scene should be visited by the Investigating Officer should be video and photographed, thoroughly examined.

v. Collection of Material evidence, direct/circumstantial evidence.

vi. Arrest the accused after preliminary investigation establishes the offence.

vii. Establish *mens rea* like failed love, hatred, contempt etc. and interrogate the accused.

viii. Collection of physical evidence – like acid bottle, controlled earth, acid burnt clothes etc. and source of securing the acid (record shop owners statement).

ix. Collection of circumstantial evidence/ FSL report on pH of acid, type of acid.

x. Examination of eye witnesses-People who have seen, who have admitted the person in a nearby hospital etc.

xi. Digital evidence like SMSs, Laptop, e-mails and any other social media etc., (Sec. 65A Evidence Act) when the accused is following the victim. Obtaining medical report on degree of burns and quantity required to cause such burns.

xii. As per the Sec 357-C Cr.PC victims of acid attack have to be provided first-aid and medical treatment free of cost by the private/public/state/ central Govt. hospitals and in turn inform the local police. Failure to provide free medical treatment is punishable u/s 166 B IPC with imprisonment for a term up to 1 year or with fine or with both.

xiii. Write to Collector, PD ICDS, Secretary, DLSA for payment of compensation as per rules/Govt. orders.

xiv. Enclose all documents in the charge sheet including the photograph of victim before acid attack and after attack as exhibit.

Punishment and Trial

a. Shall not be less than ten years, may extend to imprisonment for life, and with fine. Fine shall be paid to the victim.

b. Trial by Court of Sessions. SDPO/Inspector should be personally present. If necessary conduct audio-video electronic trial u/s 275 Cr. PC if victim is immobile.

534.2 . Sec. 326 (B) IPC : (Gender Neutral) Voluntarily throwing or attempting to throw acid (Cognizable and Non –bailable)

Ingredients :

a. Voluntarily throwing or attempting to throw acid on any person or attempt to administer acid.

b. Acid includes any substance which has acidic or corrosive character or burning nature.

c. Causing permanent or partial damage or deformity or burns or maiming or disfigurement or grievous hurt to that person.

Investigation

i. Oral evidence of the victim.(Sec.60 of Evidence Act) and ascertaining the intention of the accused and reasons to be stated.

ii. Scene should be visited by the I.O and should be video graphed and photographed.

iii. Collection of Material objects like acid, soaked clothes, acid bottles/ tin etc.

iv. Collection of evidence regarding source of acquiring the acid, recording such person statement etc.

v. Arrest the accused after preliminary investigation establishes the offence.

vi. Medical report regarding degree of the burns and the quantity of acid required to cause such burns.

vii. Collection of circumstantial evidence of accused threatening, tracking the victim.

viii. Examination of eye witnesses.

ix. Digital evidence like SMSs, Laptop, e-mails and any other social media etc., (Sec. 65A Evidence Act)

x. FSL report regarding the type of acid and pH of acid compared with the source of acid.

Punishment and Trial

a. Shall not be less than 5 years but which may extend to 7 years and with fine.

b. Trial by Court of Sessions.

The Supreme Court of India, in *Parivarthan Kendra Vs Union of India and others* vide W.P. Criminal No. 867 of 2013, dated: 7/12/2015 directed the State Governments to treat the victims of acid attack for claiming benefits under the persons with Disabilities (Equal opportunities, Protection of rights and full participation) Act and to be treated as disabled persons to enable them to get benefits of reservation in the Government Jobs and other social welfare schemes in addition to payment of appropriate compensation.

535.1. Un - natural Sexual Offences

Sec. 377 IPC: (Gender Neutral) (Cognizable and Non Bailable)

FIR is registered only on the complaint of the victim. When two adults have consensual unnatural sex, it does not constitute an offence. In Colleges, School hostels, such incidents take place, which are quite often not reported due to shyness/feeling of guilt/shame.

Ingredients

i. Has carnal intercourse against the order of nature

ii. With any man, woman or animal.

iii. If the victim is a minor (below 18 yrs male/female) sections 3 r/w 4 of POCSO Act 2012 is applicable.

Investigation

1. Collection of oral and medical evidence of the Victim and 164 Cr. PC Statement.
2. Send victim for medical examination and obtain rectal report of aggression/torture symptoms.
3. Subjecting the accused for medical examination u/s 53, 53 A Cr.PC
4. Collecting material evidence used in committing offence
5. Seize clothes and other material objects like condoms/porn literature etc.

Punishment and Trial

a. Imprisonment for life, or imprisonment for 10 yrs and fine

b. Trial by 1st Class Magistrate.

c. Remember child cannot give 'consent'.

d. Supreme Court in civil appeal 10972 of 2013, dated 11th December, 2013 in *Suresh Kumar Kaushal and another vs NAZ foundation and other* held the constitutional validity of Sec. 377 IPC.

536 : Sec. 304 (B) IPC : Dowry Death (Cognizable and Non Bailable) r/w Sec. 113 B Indian Evidence Act

Ingredients :

1. Death of a married woman other than normal circumstances (by burns / bodily injury etc,)
2. Within seven years of her marriage.
3. Soon before her death she was subjected to "cruelty" or harassment by her husband or any relative of husband in connection with dowry.
4. Sec 113 B IEA (Presumption as to dowry death-demand for dowry)

Investigation :

i. DSP/SDPO/ACP rank officer should investigate personally.

ii. Scene should be visited by the I.O and should be videographed and photographed

iii. Inquest by Tahsildar

iv. Collect Audio-video oral evidence of the witnesses (Direct / circumstances) (Audio-Video recording u/s 161 (3) Cr.PC and statement of mother/father/brother/sister/cousin u/s 164 Cr. P C)

v. Ascertain dowry paid, dowry due to be given and dates of demand. Collect marriage photographs showing jewellery or engagement photographs showing dowry money/jewellery etc.

vi. Ascertain presence of husband or other relatives, when incident occurred.

vii. Based on preliminary investigation arrest the accused before he leaves scene. Employ dog squad if he is living in the same village/Town/ neighborhood.

viii. Collection of Material evidence/ Ascertain date of marriage, marriage certificate / card circumstantial evidence.

ix. Recording of dying declaration by Police officer who reached the scene-may be recorded as FIR/ utterance made by her during the struggle. Circumstantial evidence.

x. PME by a team of doctors. One of them should be a civil surgeon rank. To be video graphed.

xi. Collection of Documentary evidence like SMS, mails, letters etc., sent/ received by the victim, letters written details of cruelty meted out etc.,

xii. Ascertain degree of burns how they are caused (inflicted by whom?) - Record Dying Declaration by Magistrate.

xiii. If death by burning, ask PME doctor presence of carboxyl-hemoglobin in the lungs or otherwise.

xiv. Check up ante-mortem/Post-mortem hanging /injuries, type of knots

xv. Recording of statement of witnesses u/s 164 Cr. PC.

xvi. Payment of compensation to the victim's family /children.

xvii. Presumption as to dowry death u/s 113(B) of I.E. Act. Prove 'Soon before'-proximate time between dowry demand and death as "soon before" is not defined.

xviii. Examine child witness i.e. son / daughter of the victim and record his/her statement in verbatim

Punishment and Trial

1. Not less than 7 years but which may extend to imprisonment for life.

2. Trial by Court of Sessions. SDPO has to attend the trial & liaise with PP/Addl. PP and marshall the evidence.

   Relevant Supreme Court Judgment in Maya Devi and another Vs State of Haryana on 7 /12/2015. Criminal Appeal No. 1263 of 2011

   The presumption under section 113 B of the Evidence Act is mandatory may be contrasted with section 113 A of the Act which was introduced contemporaneously. Section 113 A of the Act, dealing with abetment of suicide, uses the expression 'may presume'. This being the position, a two-stage process is required to be followed in respect of an offence punishable under Section 304-B IPC : if the ingredients are made out, then the accused is deemed to have caused the death of the woman but is entitled to rebut the statutory presumption of having caused a dowry death. From the evidence on record, the Court is of the opinion that in the present case Kavita died an unnatural death by committing

suicide as she was subjected to cruelty / harassment by her husband and in-laws in connection with the demand for dowry which started from the time of her marriage and continued till she committed suicide. Thus, the provisions of sections 304 B and 498 A of the IPC will be fully attracted.

In the light of the above discussion, the Court is of the opinion that Kavita @ Kusum suffered death at her matrimonial home, otherwise than under normal circumstances, within seven years of her marriage, and the case squarely falls within the ambit of dowry death. In the present case, from the evidence of the Doctor (DW-2), PW-3 and PW-4, the court find that the harassment of the deceased was with a view to coerce her to convince her parents to meet the demands for dowry." Therefore, if all the other ingredients of Section 304 IPC are fulfilled, any death (homicidal or suicide or accidental) whether caused by burns or by bodily injury or occurring otherwise than under normal circumstances shall, as per the legislative mandate, be called a dowry death and the woman's husband or his relatives shall be deemed to have caused her death.

536.1. Abetment to Suicide Sec 306 IPC. (gender neutral- i.e male/ female) (Cognizable and Non – bailable)

Ingredients :

i. Any person commits suicide,

ii. Whoever abets the commission of such suicide.(Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing)

iii. There must be direct or indirect acts of incitement for commission suicide.

iv. Sec 113 A I.E. Act presumption as to abetment of suicide by a married woman.

Investigation :

a. Scene should be visited by the I.O. Establish *mens rea* i.e. intention, preparation and commission.

b. Should be video and photographed.

c. Collection of Audio-video oral evidence of the witnesses u/s 161(3) Cr PC of direct/circumstantial evidence regarding acts of incitement to commission of suicide. Overt acts of accused to be ascertained from parents or neighbours etc.,

d. Caste panchayat held if any, and outcome-witnesses who speak of caste panchayat, to be examined.

e. Arrest the accused after preliminary investigation establishes the offence.

f. Collection and packing of Material evidence.

g. Collection of Documentary evidence like e-mails, letters, SMS, suicide note

h. Any serious medical problem being faced by the victim.

i. Direct / indirect acts of incitement to commission of suicide to be ascertained and incorporated in case dairy.

j. Suicide note if any to be cross checked (i) to find whether it was written on free volition of that person having been disgusted with his/ her life or forcibly directed by the accused to write such note.

k. Hand writing of such note should be verified by FSL with admitted hand writings.

l. Abetment involves a mental process of instigating a person or intentionally aiding that person in committing suicide, hurling of threats, cruel treatment, use of humiliating phrases, allegation of committing theft, illicit relationships etc., with an intention to drive such person to commit suicide.

Punishment and Trial

i. Imprisonment up to 10 years and fine

ii. Trial by Court of sessions. Inspector/SDPO should marshal the witnesses before trial and afford witness protection.

536.2. Sec. 354 IPC : Assault or use of Criminal force to woman with intent to outrage her modesty (Cognizable and Non Bailable)

Ingredients :

i. Assault or uses criminal force to any woman

ii. Intent to outrage or knowing it to be likely that he will thereby outrage her modesty

iii. Knowledge and intention with specific overt acts are essential.

Investigation regarding use of criminal force on her by accused with knowledge and intention to outrage her modesty

i. Oral evidence of the victim.(Sec.60 of Evidence act) to be recorded through audio –video electronic means u/s 161 (3) Cr. PC

ii. Threats being hurled at her from time to time, various incidents of the accused following her, or resorting to overt acts. Scale/degree of outrage of modesty differs from individual to individual.

iii. Collection of Material evidence like cloth pieces, broken bangles, physical injuries other items etc.

iv. Collection of direct evidence, CCTV footage in cities tower location of cell phone of accused and victim.

v. Arrest the accused after preliminary investigation establishes the offence.

vi. Collection of circumstantial evidence like knowledge of the victim's movement, earlier advances made by accused.

vii. Examination of eye witnesses.

Punishment and Trial :

a. Imprisonment of 1 year but which may extend to 5 years and with fine as per Criminal Law (A) Act, 2012. (See AP State Govt. amendment of not less than 5 yrs. that may extend to 7 yrs)

b. Trial by any Magistrate elsewhere but in AP trial by Sessions court.

536.3. Sec 354 (A) IPC : Sexual harassment at workplace of the nature of un welcome physical contact and advances or a demand or request for sexual favours, showing pornography.(Cognizable and Bailable)

(A separate Act called the Sexual Harassment of Women at workplaces (Prevention, Prohibition and Redressal) Act 2013 has been enacted w.e.f., 22.4.2013, for the prevention and redressal of complaints of sexual harassment at work place).

Ingredients

(i) Physical contact and advances involving unwelcome and explicit sexual overtures; or

(ii) A demand or request for sexual favours; or

(iii) Showing pornography against the will of a woman; or

(iv) Making sexually coloured remarks

Investigation

a. Oral evidence of the victim (Sec.60 of I. Evidence Act.), her working relationship with the accused.

b. Documentary evidence, if any, like letters written/notes sent etc.

c. Digital evidence like SMSs, Laptop, e-mails and any other social media etc., (Sec.65A Evidence Act)

d. Issue notice to accused u/s 41 A Cr. PC for appearance before the Investigating Officer.

e. Web page browsed by the accused. (Sec.65A Evidence Act) in presence of victim.

f. Whether the woman employee's ACR / Promotion file is pending with the officer as on the date of offence.

Punishment and Trial

i. For offences i, ii, iii, rigorous Imprisonment for a term which may extend to 3 years or with fine or with both, for offence (iv) up to 1 year or with fine or with both

ii. Trial by Any Magistrate.

536.4. Sec. 354 (B) IPC: Assault or use of criminal force to women with intent to disrobe (Cognizable and Non-Bailable)

Such offences occur in villages/Towns during caste Panchayath / Black Magic/Alleged sorcery etc.

Ingredients

a. Assault or use of criminal force to disrobe,

b. Compelling victim to be naked

c. Intention to be ascertained.

Investigation

i. Oral evidence of the victim (Sec.60 of I.E. Act.) and the intention, preparation and commission sequence.

ii. Circumstantial evidence like villages/town politics, personal animosity, religious superstition, victim suspected of black magic etc.

iii. Eye witnesses account.

iv. Arrest the accused after preliminary investigation establishes the offence.

v. Digital evidence like Mobile phones, SMSs, Videography etc., (65A Evidence Act).

Punishment and Trial

1. Not less than 3 years but which may extend to 7 years and with fine.

2. Trial by any Magistrate.

536.5. Sec 354 (C) IPC: Voyeurism (Cognizable and Bailable only for 1st time) for the 2nd offence, it is non-bailable)

Ingredients

a. Any man who watches, or captures the image of a woman engaging in a "private act'' like taking bath or in privacy sexual act etc.

b. In circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image.

c. Private act is defined and elaborated.

Investigation

i. Oral evidence of the victim (Sec.60 of I. Evidence Act.) of how she came to know of her being watched. If message etc., circulated, by whom.

ii. Circumstantial evidence as to why accused targeted victim. Any previous acquaintance?

iii. Issue notice to accused u/s 41 A Cr. PC for appearance before the I.O

iv. Eye witnesses account.

v. Digital evidence like Mobile phones, SMS, Videography circulating the visual by electronic means etc., (Sec.65A Evidence Act).

Punishment and Trial

i. Imprisonment of not less than 1 year but which may extend to 3 years and shall also liable to fine.

ii. Imprisonment of not less than 3 years but which may extend to 7 years and shall also liable with fine.

iii. Trial by any Magistrate.

536.6. Sec. 354 (D) IPC: Stalking (Cognizable and Bailable/Non Bailable)

It is made a punishable offence to protect the School/College going girl children & working women.

Ingredients

i. Any man follows a woman and contacts, or attempts to contact

ii. Personal interaction repeatedly

iii. Such woman have expressed disinterest in that person.

iv. Monitors the use by a woman of the internet, email or any other form of electronic communication either on hacking or having obtained password.

Exception: For detection/prevention of crime if surveillance is done, it does not amount to an offence

Investigation

a. Oral evidence of the victim (Sec.60 of I. Evidence Act.) as to circumstances and that she clearly expressed 'disinterest' and even told accused categorically not to follow(mandatory).

b. Circumstantial evidence of the accused making advances despite being told not to follow the victim.

c. Eye witnesses account.

d. Issue notice to accused u/s 41 A Cr. PC for appearance before the I.O

e. Digital evidence like Mobile phones, SMS, Whats App, Face book, Videography etc. (Sec.65A Evidence Act)

f. Investigating Officer has to summon the parents/guardian of the accused to preclude him from committing further offence. Take an undertaking from parents.

Punishment and Trial

i. Imprisonment up to 3 years and with fine for first conviction

ii. Imprisonment up to 5 years and with fine for second or subsequent conviction

iii. Trial by any Magistrate.

537. Cruelty and Harassment of Married Women

SOP in Sec. 498 A IPC and 3 & 4 of Dowry Prohibition Act.

Sec. 498 A IPC: Husband or relative of husband of a woman subjecting her to cruelty

(Cognizable, Non Bailable and Non - Compoundable, Trial by any Magistrate)

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Explanation – For the purpose of this section, "cruelty" means

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

When SHO receives a complaint from the victim/ victim's relatives about alleged harassment caused by husband or relatives (the term relative is not defined in IPC) of husband of a woman.

1. regarding cruelty harassment or unlawful demand for any property or valuable security coupled with dowry demand, and the aggrieved woman requested the police for return of dowry amount and articles, the SHO shall register a case u/s 498 'A', 406 IPC and sec.3, 4,6 of Dowry Prohibition Act,
2. As per the Supreme Court Judgment *Lalita Kumari Vs State of UP and others* (in WP (Criminal) No. 68 of 2008 dt: 12.11.2013. and C.O. Memo Rc. No. 1751/M3/2013, dt: 21.12.2013), the SHO has been empowered to conduct a "**preliminary enquiry**" in order to test the veracity of such information before registering a case after making a GD entry. Within 7 days he must come to a decision regarding registering the case or otherwise.
3. During these 7 days time, the SHO may call both the wife and husband and other relatives to find out whether there is any possibility of re-uniting the family with professional counseling methods.
4. He should also find out specific role by in-laws i.e, Mother-in-law, father-in-law, sister-in-law, brother-in-law in the alleged torture / harassment /dowry demand /willful conduct to drive the married woman to commit suicide or cause grave injury /danger to mental or physical health of the woman / harassment with a view to coercive make any money or any property.
5. Investigating Officer has to check up intention/*Mens rea*.
6. He must check up overt Acts / *Actus reus* of each alleged accused.
7. To check-up allegations of torture/beating/causing injuries/ mental agony by isolating the victim/ abuses facing her to commit suicide unless she brings dowry/valuable security.
8. He must check-up any dying declaration in case victim survives.
9. Visit the scene of crime to find out the conditions in which victim is living and the way her children are treated by the in mates.
10. He must check up any allegation of illicit intimacy of the aggrieved woman or her husband with another person

11. He must check up whether the husband having any illicit intimacy with any other woman and record such evidence including frequent SMSs, mails etc.

12. He must check up whether her children (minor) are taken away by her husband or his relatives without her consent to mount pressure for brining dowry articles/amount.

13. He must check up any phone calls made/mails sent, letters written / SMS given to her close friends/ relatives /parents.

14. He must check up whether any caste/elder panchayat was held and the details.

15. Collect marriage proof.

16. If husband has caused cruelty or harassment, the Investigating Officer may proceed with issue of notice u/s 41-A Cr.PC.

17. If the accused appears before the Investigating Officer and completed all instructions given by the Investigating Officer, he shall follow the guidelines u/s 41-A Cr.PC.

18. He shall send the draft final report to SDPO/SP if arrest have to be made, if arrests of in-laws, seek written orders of the SDPO/SP

19. In the mean while, he may issue notice u/s 41-A Cr.PC and record their statement /version.

20. He must upload all the Integrated Investigation Forms till filing charge sheet.

21. As per Sec.2 (b) of the AP Dowry Prohibition Rules, 1998, " Stridhan" means the presents made or given to the newly wedded bride which are part of " Stridhan" , and this " Stridhan" does not come under the purview of the Dowry Prohibition Act. Applying 406 IPC, Investigating Officer has to recover the "Stridhan" from the accused /relatives and hand over to the victim through Court.

22. Adequate care should be taken to collect list of Dowry articles given to the woman at the time of marriage and recover the articles under panchanama.

Object of Justice in Sec. 498 A IPC Cases

The ultimate object of Justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of the complaints of Sec 498 A IPC.

In *Preeti Gupta and Another v/s State of Jharkhand & Another* dt.13-08-2010 in Crl. Appeal No.1512 of 2010, the Supreme Court pointed out that "the tendency of implicating husband and all his immediate relatives is also not uncommon. At times, even after the

conclusion of criminal trial, it is difficult to ascertain the real truth. The Court has to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities in its considerations while dealing with matrimonial cases".

Supreme Court Guidelines for investigation ;

The Supreme Court in Criminal Appeal No.1277 of 2014 in *Arnesh Kumar Vs State of Bihar* dt.02-07-2014 has directed all the State Governments to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure what the court have observed above, the Supreme Court gave the following direction:

1. All the State Governments to instruct it's police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.PC;
2. All police officers be provided with a check list containing specified sub- clauses under Section 41(1)(b)(ii);
3. The police officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
4. The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;
5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;
6. Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;
7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.
8. Authorizing detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

9. The Supreme Court hasten to add that the directions aforesaid shall not only apply to the cases under Section 498-A I.P.C. or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.

538.1. Prevention of Immoral Trafficking

Sec. 370 IPC (Gender Neutral):Trafficking of person (Cognizable and Non Bailable) SDPO/Dy.SP is the I.O.

Ingredients :

a. Trafficked for the purpose of exploitation. Investigating Officer to find out recruitment, transporting, harboring.

b. Transferring or receiving a person or persons (male/female) using threats, force or other forms of coercion or by abduction or by practicing fraud or deception or by abuse of power or by inducement including giving or receiving of payments or benefits in order to get achieve consent of such person.

c. Exploitation shall include any act of physical or any form of sexual exploitation, slavery or servitude or the forced removal of organs, selling of Human organs, sales of children for exploitation, forced labour, begging and migration

d. The consent of the victim is immaterial in determining the offence of trafficking.

Investigation :

SDPO is the Investigating Officer.

i. I.O should record statement of the VOCSET (Victim of Commercial Sexual Exploitation and Trafficking) or of the person trafficked for other purposes like slavery, organs removal etc. Use audio-video electronic means of recording verbatim as per 161 (3) Cr. PC.

ii. Send requisition to court for Sec 164 Cr. PC statement of victims. (Take care to de-traumatize victims before recording their statement)

iii. Send victims for medical examination u/s 164 (A) Cr. PC (for female), and male victims separately

iv. Send accused including "so called customers" for medical examination u/s 53,53 A Cr. PC

v. Recover all personal belongings, bank balance and other articles of the victim while rescuing him/her from the traffickers.

vi. Ascertain age of victims from the school/village/Hospital records. Ascertain real names of victims as quite often they give false names

during rescue. If no documentary proof is available send victims to Professor Forensic Medicine for ossification test. As per Supreme Court Judgment lower age bracket to be taken into account. (For example if Professor of FM states that the victim is between 17 & 19 yrs, then 17 yrs is taken)

vii. Collect link evidence from the source (from where he/she is initially trafficked), transit and various destinations (map the different places). Cases can be registered individually and investigated separately

viii. Write to SDM of the local area for closure of the place of exploitation u/s 18 (1) ITP Act

ix. Include the recruiters, transporters, buyers, sellers, abusers, muscle man, brothel keepers as accused

x. Obtain Municipal/ Panchayath ownership papers of the premises

xi. Seize all documents like register, mortgage documents etc., of the premises

xii. Seize all other articles like condoms, porno literature, CDs, Write to Banks to freeze the bank accounts of the accused.

xiii. Write letters to Enforcement Directorate to take up 'asset forfeiture' of the exploiter's assets under PMLA Act.

xiv. As trafficking is a **'continuing offence'** from the time the victim is trafficked, till he/she is rescued, the age at which he/she was trafficked is applicable in determining the offence. Suppose she was rescued at 21 yrs. and in her Sec 164 Cr.PC statement she states that she was trafficked for commercial sexual exploitation at 17 yrs, then sections 366 A, 370, 372, 373 IPC r/w Sec 5 and 6 POCSO Act and ITP Act sections are applicable.

xv. Write to Collector or PD, WCD / Secretary LSA for payment of interim relief fund to victim.

Punishment and Trial:- In camera Trial.

When accused is in a different Jail/ at a faraway place Prosecutor can file requisition for audio-video electronic trial as per Sec.275 Cr.PC.

a. Shall not be less than 7 years, but up to 10 yrs and shall also be liable to fine.

b. Trafficking of more than one person, and Involves a minor not less than 10 yrs, up to life and fine.

c. Trafficking more than one minor, not less than 14 yrs, up to life and fine.

d. Person convicted of offence of trafficking of minor on more than one occasion, which shall mean the remainder of that person's natural life and fine.

e. Public servant or Police officer is involves; imprisonment for life which shall mean the remainder of that person's natural life and fine.

f. Victim has a right to prefer appeal u/s 372 Cr.PC(Criminal Amendment Act,2008)

g. Trial by Court of Sessions / Write for in-camera trial u/s 327 Cr. PC r/ w 37 POCSO Act.

538.2. Sec 370 (A) IPC: Exploitation of trafficked child (Cognizable and Non Bailable)

Ingredients

a. Knowingly using trafficked minor for sexual exploitation.

b. Using trafficked person (above 18 yrs of age) for sexual exploitation (procedure laid for Sec. 370 IPC is applicable)

Investigation

Procedure as mentioned in Sec. 370 IPC

Punishment and Trial

i. Exploitation of a trafficked child; not less than 5 yrs up to 7 yrs and fine.

ii. Exploitation of a trafficked person; not less than 3 yrs but which may extend to 5 yrs and with fine.

iii. Trial by Court of Session

538.3. Investigation of Immoral Traffic Prevention Act, 1956

(In Short ITP Act)

There are certain basic principles in ITP Act/IPC:

1. Principle of urgency in rescue/raid

a. All Inspectors of Police and ACsP are appointed as Spl. Police Officers (GO Rt. No. 475 Home (Pol.D) Dept, dtd.16/08/1991) to be assisted by SIs/ ASIs/ HCs/ PCs u/s 13 (2) ITP Act. Only SPO is authorized to investigate.

b. Arrest to be made by SPO or under his direction, or subject to his prior approval by police Sub-Inspector (PSI) sec 14(1)

c. SPO by an order in writing may direct any officer subordinate to him sec. 14(2) to conduct raid / rescue.

d. SI of police may arrest offenders who are likely to escape/ destroy evidence/ give false identity- but shall report to SPO immediately as per Sec 14(3) and make a mention in the CD

e. Separate traffickers from the victims immediately at the scene of rescue. Get them medically examined for sexual exploitation presence of S.T(Sexually Transmitted Diseases), HIV etc.,

2. Principle of search and seizure

a. SPO to record grounds of his belief before search. Sec. 15(1)

b. Among panch witnesses one should be a woman. Sec. 15 (2)

c. Some exceptions are envisaged in Act 46 of 78

d. Refusal to attend as panch witness entails punishment.

Sec.187 IPC

e. All persons to be rescued. Sec. 15(4). Rescue is not state- specific.

f. Production before appropriate Magistrate sec. 15(5)

g. Medical examination for age, STD diseases. Sec. 15(5A)

h. Legal protection from prosecution for SPOs / panchas.

i. 2 woman police officers to accompany rescue team sec. 15 (6A)

j. Only SPOs/ Deputies are empowered to conduct rescue.
(Delhi admn vs Ramsingh AIR 1962 SC 63)

k. Seize all registers, municipal / panchayat receipts / condoms / porn sites etc., available from the scene of crime.

3. Principle of background (Home) verification

i. Inquiry into home verification. Probation officer may be directed by judicial magistrate under Sec.17 (2), NGO sec. 17A may be directed to verify. Satisfy correctness of information-need for care & custody.

ii. Remember false addresses are given both by victims and accused traffickers.

iii. Safe custody of the VOCSET (victim of commercial sexual exploitation and trafficking) is important to preclude re-trafficking.

iv. Magistrate to keep a list of 5 experienced social workers (3 women). u/s 17(5) to advise him.

v. Check up capacity or genuineness of parent/ guardian or husband to take care of the victim. (Sec. 17A)

4. Principle of organized crime perspective

1. Secret net works.

2. Driven by profit
3. Source – Transit – Destination
4. Cut outs
5. Commoditization
6. Indoctrination of victims
7. Drugs / Alcohol etc.

5. Principle of criminal liability of exploiter/ so called customer

a. Sec. 6(2) ITP Act... Where any person is found with a child in a brothel.. Presumed to commit the offence

b. Sec. 6 (2A)... Commercial sexual exploitation of child / minor. VOCSET (Victim of Commercial Sexual Exploitation and Trafficking)

c. Sec. 7(1)...Who carries on prostitution and person with whom such prostitution is carried on. If with child or minor not less than 7 yrs imprisonment. Sec. 7(1A)

d. Magistrate to order the SPO for recovery of jewellery, wearing apparel, property belongings of victims to prevent re trafficking.

e. Most often the victims go back for recovering their earnings. Magistrates play vital role in prevention.

6. Principle of basket of crime concept :

a. Wrongful restraint / confinement

b. Kidnapping / Abduction

c. Causing bodily injury

d. Rape / Gang rape

e. Threatening

f. Drugging

g. Selling / Buying

h. Different crime partners.

7. Principle of continuing crime concept :

a. Starts from Source – Transit – Destination. Sec. 5(3) (a)

b. FIRs can be registered at the Source/Transit/Destination Investigated / Charged separately.

c. Age determination (If trafficked at 16 yrs, rescued at 21 yrs, affirmed in Sec.164 Cr.P.C, then Secs. 366A, 372, 373, 376 (D) of IPC are applicable).

d. Application of stringent provisions of law is the key to prosecution and prevention.

8. **Principle of Burden of Proof :**

a. Presumption of adults (above 18 yrs age) living on the earnings of prostitution and exercising influence over the movements of a prostitute. If found in the brothel (Sec. 4 (2) C ITP Act).

b. Presumption of person (s) found with a child/minor in a brothel that he committed an offence of detaining the child in premises where prostitution is carried on (Sec. 6(2) ITP Act).

c. When a person with holds jewellery, wearing apparel, money or other property belonging to a woman or a girl confined in a brothel for sexual exploitation or when the person threatens such victim woman or girl with legal proceedings in case she takes away such jewellery, money or property is presumed to have detained such woman/girl for C.S.E (Commercial Sexual Exploitation) (Sec. 6(3) ITP Act).

538.4.

Immoral Traffic (Prevention) Act 1956 r/w 1986 Amendments-Penal Sections

SI. No.	Sec. of Law	Brief Description	Punishment
1	3	Punishment for keeping a brothel or allowing premises to be used as a brothel. Investigation has to prove that premises is being used to purpose of prostitution for gain of another person or for mutual gain of two or more prostitutes.The rule of prudence is to look for corroboration.	Upto 2 years and with fine and for the sub-stantial conviction not less than 5 years and fine.
2	4	Punishment for living on the earning of the prostitution. Court should presume if the person above 18 years age is found in the premises, that he is living on the earning of the prostitution.	Not less than 7 years if minor is exploited. In case of major upto 2 years and with fine.
3	5(1) 5(2) 5(3)	Procuring inducing and taking the person for purpose of prostitution . If the offence is committed against the will of any person. If a child (16 yrs. age) is rescued from the brothel house or If the minor (16-18 yrs. age) rescued from the brothel house Case can be tried both at the place at where she is procured, caused to go, taken from that place i.e, at Source, Transit & Destination separate cases can be registered and investigated into.	Not less than 3 yrs and not more than 7 yrs Upto 7 yrs and may extend to 14 yrs. Not less than 7 yrs and may extend to life. Not less than 7 yrs and not more than 14 yrs.
4	6 (1) 6 (2) 6(2)(A) 6 (3) 6(4)	Detaining a person in the premises where prostitution is carried on Liability of the customer/client. If a customer is found with a child in the brothel it is presumed that he has committed an offence under this section If a child(16 yrs age) or a minor(16-18 yrs) is found on medical examination to have been sexually abused the court shall presume that the child or minor has been detained for purpose of prostitution for commercial purpose (Commercial Sexual exploitation) In order to compel the women or a girl in a brothel, if the brothel keeper with holds her jewellery, money, other properties or threatens with legal proceedings, the court shall presume that such person has detained her in the brothel. The victim has right to recover her jewellery, money and property from the brothel keeper and she is protected by law	On conviction not less than 7 years or may be for life.
5	7 7(1)(A) 7(2)	Prostitution in or in the vicinity of the Public place (liability of the client/customer). If a client is found with a woman in any brothel within 200 mts of Temple / Church / Mosque / School / College / University / Hostel / Hospital / Nursing Homes / Public place. If such person is found with child/minor The owner, lessor or land lord of any premises mentioned in Sec. 7(1) is liable for punishment if prostitution is going on with his knowledge. I.O has to mention that it is a public place and knowledge of the owner regarding prostitution being carried on.	Punishable upto 3 months. Imprisonment not less than 7 yrs. or may be for life

538.5 Standard Operating procedure for investigation of Human trafficking crime

Human Trafficking and Exploitation :

All SsP/SsRP/CsP are designated as AHT officers in their respective units. Vide G.O.Ms. No. 165 Home (PS& CA2), Dept., Dt: 26.06.2011. They have to monitor the progress and obtain monthly return in Form 183.23 to 183.30 from Police Stations / Circles.

1. On receipt of information that children/women are commercially and sexually exploited (CSE) in a brothel (Sec 2 (a) ITP Act), the SI of Police or the In-charge SHO should make a General Diary entry and inform their jurisdictional CI of Police or Inspector of Police who is Station House Officer.
2. As all Inspectors of Police and Asst Commissioners of Police in AP are designated vide GO Rt. No. 475 Home (Pol.D) Dept, dtd.16-08-1991 as Special Police Officers u/s 13 (1) of the I.T.P Act 1956, SPO alone is competent to set law into motion under I.T.P Act.
3. If Inspector of Police/ACP is busy, he should give in writing authorizing the concerned SI/ASI/HC to proceed and conduct raid on the brothel and rescue all the victims.
4. If Inspector of Police/ACP is on some other duty far away, he may authorize orally through phone/wireless/SMS the concerned subordinate officer to conduct the rescue/raid. The date and time of such "authorization" by SPO should be mentioned in the station General Diary (relevant u/s 35 IEA) and only then the subordinate officer gets power to implement ITP Act.
5. On return from raid/rescue, the subordinate officer shall mention details of authorization both in the C.D Part I and submit detailed report to the SPO and remand the accused mentioning the specific authorization.
6. Remember, defence counsel always insists whether the raid party has the authority to raid/rescue which S.P.O alone has such power.
7. Remember K.L.P.D.P.P concept (of ITP Act) i.e, Sec. 3: Punishment for **Keeping** a Brothel or allowing premises to be used asa brothel, Sec. 4 : Punishments for Living on the earnings of prostitution, Sec. 5 : **Procuring**, including or taking person fro the sake of prostitution, Sec. 6 : **Detaining** a person in premises where prostitution is carried on , Sec. 7 : **Prostitution** in or in the vicinity of **Public Places**. While writing panchanama in the presence of a Woman Police officer, or a woman panch witness, care should be taken to segregate with the help of nodal NGO (an important stakeholder in rescue protocol) the victims from the traffickers.

8. The raid party in-charge officer should write the age of victims as appears to them, instead of writing the victims age as narrated by them. Remember that often victims give false name and nativity and mention that they are above 18 yrs. age to save their brothel keeper from severe punishment or at the instance of brothel keeper.
9. The raid/rescue party officer should write the victim's age correctly, as visualized by the Officer. If below 18 yrs, the important non-bailable, session triable sections like Sec. 366 A, 366 B, 372, 373 IPC in addition to Sec. 370, 371A IPC are applicable. Obtain age proof of date of birth from School / VAO / Hospital.
10. As trafficking is made an exclusive Sessions triable offence u/s 370, 370 A IPC invariably in every rescue Sec. 370, 370A IPC has to be added along with Sections 3, 4, 5, 6 & 7 of ITP Act as the case be i.e, Sec.370 IPC is a common factor.
11. Before sending them to safe custody, the victims have to be medically examined as per Sec. 164 A Cr.PC with specific request to the medical officer to find out (i) Sexual exploitation (ii) HIV reports, (iii) Presence of sexually transmitted diseases, (iv) Medical report on unnatural sexual activity the victims were subjected to, and obtain the detailed report in the 'proforma' of Sec. 164 A Cr.PC.
12. The victims after being produced before the Judicial Magistrate with a requisition to place them in safe custody either in a Government Home run by Women & Child Welfare Department or Home run by accredited NGOs.
13. The raid party officer has to send the accused and clients/Customers for medical examination u/s 53, 53 A Cr.PC and later produce them with a remand report signed by the Special Police Officer (S.P.O) to remand them to judicial custody.
14. The raid party officer has to seize all the Cell phones, documents of the brothel like registers of expenditure, other municipal / panchayat receipts, electricity, water bills, mortgage / lease documents etc., where the brothel keeper/muscle man/procurer/buyers nexus can be established. Cell phones provide clues for further investigation. (These documents have to be submitted to SDM (Revenue Divisional Officer) for closure of brothel u/s 18. (1) ITP Act.)
15. The customers/clients if arrested, Sec. 6/7 ITP Act has to be invoked as they are liable for penal action. If they are found with a child below 18 yrs, a specific mention should be made both in the panchanama, the CD Part I and remand CD as the burden of proof in such cases is on the accused.
16. File requisition for recording Sec.164 Cr.PC statement of victims after due counselling and de-traumatisation by the Counsellor of Women &

Child Welfare Dept. Audio-Video recorded statements of Sec 164 Cr.PC have to be sent to court and if it is revealed that the victims are trafficked at the age of 12 or 13 or 14 or 15 or 16 or 17 or 18 yrs age, the relevant sections like 366 A, 372, 373 IPC are applicable. In case of majors (above 18 yrs) section 376-D IPC (gang rape) is applicable.

17. In case of children, in addition to Sec. 366 A, 370, 370 A, 372, 373 IPC, Sections 3 to 7 ITP Act and Section 5 r/w 6 POCSO Act 2012 are also applicable.

18. File 'memo' in the Court when additional Sections of law are invoked. Further investigation, further arrests of traffickers have to be made. For example, if a victim is trafficked from Kadiri of Anantapuramu District, taken to Pune (Budhwarpet brothel) under Farazkhan Pet PS of Pune Commissionerate, later trafficked to Kamatipura of Mumbai under Nagpad PS of Mumbai and later to New Delhi (GB Road) under Kamala Market PS, the I.O has to obtain search warrants u/s 93 Cr.PC r/w Sec.166 Cr.PC from the jurisdictional court, conduct raid at all the above places accompanied by the victim and Nodal NGO and arrest the accused and rescue victims. Do not transport the victims and accused in the same vehicle, to avoid confrontation.

If it is the same train, the accused have to be in a different compartment.

19. Two Scene of crime maps have to be prepared (u/s 157 Cr.P.C)

(i) at the place from where the victim was rescued,

(ii) at different places to which the victim was trafficked before the rescue. For example take India map, point out the origin of the trafficked victim, transit and various destinations where she was exploited. For instance map will be showing Kadiri–Guntakal (Transit)-Pune-Mumbai-New Delhi (Place from where victim was last rescued). The visual India (Cross-Country) trafficking map will provide a larger dimension to the trial Court.

20. n the charge sheet "organised crime perspective" should be mentioned i.e, the trafficking as a secret network, driven by profit, involving gross human rights violations.

21. Immediately after the rescue, a detailed letter should be written to the jurisdictional SDM (RDO) for closure of the brothel u/s18(1) ITP Act and ensure closure.

22. Write to Project Director, ICDS, WCD Dept for de-traumatisation, P.T.S.D (Post Traumatic Stress Disorder) treatment, treatment for H.I.V, S.T.D diseases and parallely take up skill building of the victims. Also for payment of I.R.F (Interim Relief Fund) of Rs.10,000/- as per G.O.Ms.No.28/2011 of WCD of Government of Andhra Pradesh

or G.O.Ms. No. 43(Courts-B) Department, dated :15.04.2015 r/w G.O.Ms. No. 132.,Home (Courts-B), 6th December,2016.

23. Inform the court for directing the concerned Probation Officer of the Juvenile Welfare Department u/s 17 of I.T.P Act or directions to Nodal NGO u/s 17 A of ITP Act for Home verification of the victims. No victim should be allowed to be given to 'safe custody' to the so called parents, guardian, brothers, sisters who are often the abettors, without the Home Verification Report (H.V.R)

24. Verify the address (correctness) furnished by the accused as quite often the traffickers furnish false addresses and incorporate the correct address in the CD and charge sheet with alias names. For example during raid the victim says she is Sujatha later turned out to be Roja, I.O has to mention Sujatha @ Roja in the CD.

25. Remember the I.T.P. Act is procedural law and defence counsel will always try to find out loop holes in the investigation. Remember you are mandated to conduct raid or rescue only with explicit authorization of S.P.O (Special Police officer) i.e, CI of Police/Inspector of Police (where he/she is the SHO).

26. Exhibit "Zero Tolerance" towards trafficking crime, most heinous crime in the world and bring all the chain of offenders to justice.

27. Important Evidence Act provisions applicable during trial.

i. A previous conviction of trafficker is relevant as evidence of bad character (Sec. 54 IEA)

ii. Evidence of character or previous sexual experience not relevant in certain cases. (Sec.53 A IEA)

iii. Presumption as to absence of consent in certain cases of prosecution for rape (Sec. 114 A IEA).

iv. Defence advocate is not permitted to adduce evidence in cross - examination of the victim as to general immoral character or previous sexual experience (Sec.146 IEA).

v. Indecent and scandalous questions (Sec. 151 IEA)

vi. Questions intended to insult or annoy (Sec. 152 IEA)

(I). DRUG TRAFFICKING

539 : The following points have to be thoroughly followed by Police Officer before proceeding for search and seizure under NDPS(Narcotic Drugs and Psychotropic Substances) Act, 1985.

539-1 Drug Trafficking / Empowerment of SI of Police:

Vide G.O.Ms.No.183, Rev(E) dated 14th February, 1986 of Govt. of A.P., S.I. of Police and above are conferred powers u/s 41(2) NDPS

Act and vide GO Ms.No.184, Revenue(E) dated 14th Feb.1986, officers of S.I. rank and above are conferred powers u/s 42(1) NDPS Act and officers not below S.I. of Police rank as officer-in-charge of Police Stations u/s 53 of NDPS for the investigation of cases(Vide G.O.Ms.No.185 Rev(E)dt.14th Feb, 1986). All offences under NDPS Act are Cognizable and non-bailable(Sec 37 of NDPS Act). This is on the assumption that the officer is the only authorised officer under section 42 of the NDPS Act (hereinafter referred to as Act).

2. Authorization :

The Police Officer (SI Rank and above) under section 42 shall take the **information in writing make a G.D. entry** and submit the same to his superior officer and thereafter take authorization (this shall also filed along with charge sheet) from him to proceed with the search and seizure under the Act (see section 42). It is advisable to take a gazetted officer along with the party (panch witnesses) and a woman gazetted officer, if SHO suspects any lady or ladies are involved in the case. The officer who has taken the information in writing from the subordinate officer shall send this information to his immediate superior officer within 72 hours in order to comply with the provisions of section 42 (2) of the Act under due acknowledgement.

3. Personal search of the Accused :-

After the search and seizure, if the officer wants to search the person of the accused, he shall apprise the rights of accused to be searched before a gazetted officer or Magistrate. If the accused wishes to be searched before a Gazetted Officer (G.O.) this requirement shall be complied with in terms of section 50 of the Act. If the accused waives his right to be searched before a Gazetted officer or Magistrate, the same shall be taken down in writing by the Investigating Officer who has to obtain signature of the accused in the presence of panch witnesses. This is in compliance with section 50 of the Act.

4. Obtaining samples/Use of Test Kit: If the officer comes to a reasonable belief that the goods (drug/substance) found are liable for confiscation he shall seize the same in the presence of panch witnesses. Before seizure, he shall **draw a small amount of sample** to test the nature of the goods in order to entertain reasonable belief that it is liable for confiscation (use test kit) and if the possessor of the goods does not produce any licit document for possession of the same, the officer shall seize the contraband in the presence of panch witness and thereafter draw **representative samples** from the contraband in duplication and shall prepare **test memos in triplicate** (one shall be kept in one sample cover and other shall be kept in

another sample cover and 3rd test memo shall be kept in the case file). The test memo shall contain the details of the samples, date of seizure and facsimile of sample seal. This exercise shall be done in the presence of panch witnesses and the accused by the seizing officer.

5. Since NDPS is a draconian law and the procedure contemplated under the Act shall be complied with scrupulously avoiding table investigation. After taking samples, Investigating Officer has to obtain the signatures of the accused, panch witnesses and the seizing officer shall also sign on the same. The contraband shall be properly sealed and shall be kept in a cover on which the signatures of the accused, panch witnesses shall be taken. The seizing officer shall also sign on the same. PROPER CHAIN OF CUSTODY OF SAMPLES AND CONTRABAND SHALL BE MAINTAINED ALTHROUGH. The samples and official seal shall be returned to the Proper Officer and hand over the same under acknowledgement. It is advisable to take the contraband and exhibit before the Magistrate along with property form while producing the accused in the court. Proper endorsement shall be taken on the property form while the contraband is returned to officer for safe custody (this shall be again produced in the Court at the time filing of charge sheet).

How to draw samples :

The quantity to be drawn in each sample for chemical test should be 5 grams in respect of all Narcotic Drugs and Psychotropic substance except in the cases of Opium, Ganja and Charas / Hashish where a quantity of 24 Grams in each case is required for chemical test. The same quantities should be taken for the duplicate sample also. The seized drugs in the packages / containers should be well mixed to make it homogenous and representative before the sample in duplicate is drawn also marking such lots, in the case of hashish ganja less than 20 packages/containers remain, and in case of other drugs less than 5 packages/containers remain, no bunching would be necessary and no sample need be drawn. If it is 5 or more in case of other drugs and substances and 20 or more in case of ganja and Hashis, one more sample in duplicate may be drawn for such remainders package / containers. While drawing one sample in duplicate from a particular lot, it must be ensured that representative drug in equal quantity is taken from each package/container of that lot and mixed together to make composite whole form which the sample are drawn from that lot.

Recording of the statements (under Sec. 67 of NDPS Act)

Investigating Officers has to make entry in CD that he explained the provisions of section 67 of NDPS Act. I.O to record regarding giving caution that the statement will be used against him or any other person in court of law. Since Sec. 161 (3) Cr. PC enables audio-video recording, witness statements be recorded in verbatim through video and the verbal & video statement be sent to the Court filing charge sheet.

6. After the seizure of the contraband and arrest of the accused, the same shall be informed **within 48 hours** to the Superior officer (Sec.57) in writing , take acknowledgement and file it in the CD. This may also filed in the court along with charge sheet.

7. Presumption u/s 35 of NDPS Act:

The Court shall presume existence of "Culpable mental state" including intention, motive, knowledge of a fact and reason to believe such a fact.

8. Power to call for information (u/s 67 of NDPS Act)

Immediately after the conclusion of panchanama, issue summons under section 67 of the Act to the panch witnesses and take their statement as to what transpired during the course of panchanama. Even if the panch witnesses turn hostile, their statement tendered under section 67 of the Act are relevant in terms of Section 53A of the Act.

9. Confiscation of Sale proceeds of illicit drugs or substance (Sec. 62 of NDPS Act)

I.O. Shall confiscate Sale proceeds, if any, where such drug or substance is liable for confiscation and mention the same in the panchanama.

10. Investigating Officer shall also write to the Appellate Tribunals

(u/s 68 of Chapter VA of NDPS) for freezing and forfeiture of illegally acquired property.

On coming to know of the list of properties (movable / immovable) acquired by the accused or his/her relatives (spouse / Brother / Sister / Brother / Sister of the Spouse of the person; any linear ascendant or descendant of the person or Spouse of the person(Sec.65 B(I) of NDPS Act), I.O. has to prepare a report to the Appellate Tribunal for freezing and forfeiture of the property illegally obtained by Sale proceeds of Narcotics drugs/Psychotropic substances.

11. Investigating Officer has to find out whether seized drug / substance is a ' **small quantity'** (Sec. 2 (xxiiia) or ' " **commercial quantity**" from the Govt. of India notification.

Drug/Substance	Small quantity	Commercial quantity
Cocaine	2 gms	100 gms
Heroin	5 gms	250 gms
Ganja	100gms	20 kgs
Opium	25 gms	25 kgs
Poppy Straw	1000 gms	50 kgs
Pethidine	10 gms	200 gms
Morphine	5 gms	250 gms
Codeine	10 gms	2 kgs

12. Documents to be sent to Court along with the contraband with the charge sheet.

1. FSL Report of the type of drug or Psychotropic substance with purity percentage and weight in grams .
2. Acknowledge copy of the information sent to immediate superior officer (u/s 42 (2) of NDPS Act)
3. Copy of the full report of arrest and seizure (u/s 57) sent by the Investigating Officer to his immediate superior officer.
4. Statements including audio-video electronic recording statements of witnesses.
5. Seizure panchnama
6. Arrest memo copy
7. Any letter written to the Appellate Authority for freezing and forfeiture of illegally acquired property.

13. Reasons for acquittal:

Any omission of mandatory provisions by the I.O. including sending report to immediate Superior officer u/s 42(2) (Crime information report recorded in writing), or Sec.57 (Full report of the particulars of arrest of seizure) non – enclosure of copy of test memo enclosed in the sample entitle acquittal as the NDPS law is inter-woven with several safe-guards in observance of procedure during search, seizure, arrest, statement recording and Final report.

14. In case of seizure of commercial quantity it is advisable to transfer the case to Narcotic Control Bureau (044-24911482), Rajaji Bhavan, Basant Nagar, Chennai-90 or Directorate of Revenue Intelligence, Hyderabad for taking up concerted further investigation. SsP / CsP have to speak to Regional NCB Officer of Chennai seek their cooperation in tracking and breaking the entire net.

15. SsP/CsP should get in touch with NCB Mumbai Zonal Unit, 3rd floor, Exchange Building, Sprott Road, Ballard Estate, Mumbai – 400001 (022-22621593), as Mumbai, Pune are known transit points.

The detailed addresses of Zonal Directors are furnished here under for ready reference.

Zonal Director, Narcotics Control Bureau, Mumbai Zonal Unit, 3rd Floor, Exchange Building, Sprott Road, Ballard Estate, Mumbai – 400 001 Phone No : 022 2262 1593

Zonal Director, Narcotics Control Bureau, Chandigarh Zonal Unit, 80, Sector 2, Chandigarh 160 011 Phone No : 0172 274 9781

Zonal Director, Narcotics Control Bureau, Delhi Zonal Unit, West Block I, Wing No 7, R K Puram, New Delhi 110 066 Phone No : 011 2618 6283

Zonal Director, Narcotics Control Bureau, Ahmedabad Zonal Unit, Block No 47 & 48, 5 B, Mitramandal Society Usmanpura, Ahmedabad 380013 Phone No : 079 2755 3053

Zonal Director, Narcotics Control Bureau, Jammu Zonal Unit, 11, New Rehari, Jammu 180 005 Phone No : 0191 252 0181

Zonal Director, Narcotics Control Bureau, Kolkata Zonal Unit, 4 / 2, Karaya Road, Kolkata (West Bengal) 700 017 Phone No : 033 2289 1963

Zonal Director, Narcotics Control Bureau, Chennai Zonal Unit, C 3 – A, Rajaji Bhavan, Basant Nagar, Chennai – 600 090 Phone No : 044 2491 2718

Zonal Director, Narcotics Control Bureau, Jodhpur Zonal Unit, Loco Shed Road, 17, Rakhi Jojawar House, Ratanada, Jodhpur Phone No: 0291 251 0024

Zonal Director, Narcotics Control Bureau, Varanasi Zonal Unit, S-18/38, Taxal, Lalit Behari Sen Marg, Nadesar, Varanasi Phone No : 0542 250 279

Punishment :

Sections 15 to 32 of the NDPS Act lay down the punishments for various offences. Most offences except possession of small quantity for personal consumption are punishable with minimum of 10 years and a maximum of 20 years of imprisonment. Section 27, which deal with possession of small quantity for personal consumption has lesser punishment. The thrust of the Act is on trafficking, which include cultivation, manufacture, transport, export and import of the drugs and their distribution. The Act also provides for forfeiture of property derived from, used in, illicit traffic in narcotics for which detailed procedure has been laid down in sections 68-A to 68-Y. Section 52-A permits disposal of seized property after taking an inventory and photographs which can be accepted as evidence as they are certified by the concerned Magistrate.

Principle of Possessions :

The most important point to be proved in all cases of narcotic drugs and psychotropic substances is possession of the drug. Any omission or non-compliance with the legal requirements laid down in the search or seizure will vitiate the proceedings and may result in acquittal of the accused. Whether it is transport, distribution or cultivation or manufacture, it is the possession of the drug that has to be proved by the prosecution. Even preparation, attempt, abetment and conspiracy relating to these drugs are also punishable. The Act also provides for enhanced punishments for subsequent offences.

Guidelines issued by the Narcotics Control Bureau, New Delhi :

540. Some of the mandatory provisions and points to be remembered are indicated below :

1. A gist of information received should be incorporated in the Police Station records and the same should be intimated to the immediate superior officer and also entered in the Station House general diary.

2. The accused should be informed about the grounds of his arrest as in all other cases of arrest (section 52 Cr. PC).

3. Report of arrest and seizure should be forwarded to the immediate superior officer within 48 hours under acknowledgement. All these records are required to be produced in court before trial.

4. Since the prosecution has to prove possession of the drugs beyond doubt before any presumption can be raised, it is necessary to follow the guidelines given below in the matter relating to raid or search by the Police Officers.

5.A. All officers deployed for search should carry their Identity Card.

B. There should be a prior planning including survey of the place where the search has to be undertaken.

C. The officer-in-charge of the search should deploy his officers in such a manner that all the entrances/exits are properly guarded.

D. All incoming telephone calls should be received by the searching officers only. No person within the premises should be allowed to talk on phone with any person outside.

E. Immediately on entering the premises, the occupants should be instructed not to converse with each other.

F. The searching officers should examine every document and record and decide it's worth for purposes of recovery and seizure.

G. Samples should be drawn as per the procedure prescribed.

H. The documents/records to be seized should be numbered serially and a brief description of the file/records and the period to which it belongs should be mentioned in the Panchnama.

I. The statements of the persons concerned should be recorded on the date of search itself lest the party tutor them. For this purpose, a brief and immediate scrutiny of the records/documents should be done.

J. Soon after the commencement of the search the contact telephone number of the party should be given to the officer who is monitoring the search/raid. He should be apprised of the commencement of the search and its progress from time to time and the important material that has come to notice till then. Before withdrawal from the search, as far as possible, clearance from the same officer should be taken unless the search party has already briefed him in this regard.

K. All papers including search warrant (executed) and the Panchnama, the initial intelligence and other papers given before proceeding on search should be returned to the person who issued the warrant.

L. Search / Raid party should invariably carry with them a drug identification / testing kit and should also have kit bag containing certain essentials like, screw driver, torch, flash light, mirror, walkie talkie, binocular, night vision devices, hand cuff, seal, sealing materials, emergency medical kit etc.

541. Points to be noted while recording Panchanama

1. Name, occupation, age and address of Panch witnesses.
2. Time, date and place of proceedings.
3. Reason for search

4. Authority for search
5. Identify yourself by showing Identity Card, mention the same in Panchnama.
6. Mention names of a few other officers included in the search party.
7. Offer personal search of each member
8. Mention presence of the occupants of the premises/person to be searched.
9. Mention description of place to be searched.
10. Give graphic description of the search operation e.g., who opened the suitcase, who had the key, from where the incriminating documents or contraband was recovered, how it was concealed etc.
11. Test drugs with field testing kit and mention results.
12. Mention where and how the weighment of contraband goods was done. Give gross weight, net weight.
13. Mention value of contraband to be seized.
14. Mention number of samples drawn and their weight, what identification marks were given to contraband samples and documents proposed to be seized/taken over.
15. Mention time of conclusion of Panchanama.
16. Offer personal search on conclusion of search before leaving the place of search.
17. Take photographs, finger prints wherever possible.
18. Mention money and valuables given back to the person searched or seal them for handing over later in the court.
19. Seal contraband and exhibits mentioning seal number.
20. Take signature of Panchas, officer writing the Panchnama and the person being searched on labels pasted on contraband, exhibits and documents.
21. Mention provisions of law under which the seizure was done.
22. Mention any important event taking place during search e.g., arrival of more officers or persons etc.
23. Give a copy of Panchnama to the persons searched and obtain receipt from him.

Drawl, Storage, testing and Disposal of Samples-Procedure :

542. Procedure of drawl, storage, testing and disposal of samples from seized narcotic drugs and psychotropic substances.

1. All illicit narcotic drugs or psychotropic substances recovered from a person, place, conveyance etc. are liable to confiscation (sections 60 to 63 NDPS Act). Further, they constitute important evidence for any act, omission or commission on the part of a person rendering him liable for punishment under Chapter IV of the NDPS Act, 1985. Most

of the narcotic drugs and psychotropic substances cannot be conclusively proved to be such drug or substance merely by visual examination in the trial Court and hence the drugs seized should be sent for chemical examination to FSL. The disposal of the confiscated goods should be as per the orders of the court.

2. If the drugs seized are found in packages/containers the same should be serially numbered for purposes of identification. In case the drugs are found in loose form the same should be arranged to be packed in unit container of uniform size and serial numbers should be assigned to each package/container. Besides the serial number, the gross and net weight, particulars of the drug and the date of seizure should invariably be indicated on the packages. In case sufficient space is not available for recording the above information on the package, a Card Board Label, should be affixed with the seal of the seizing officer and the above details should be recorded.

Place and time of drawl of sample :

3. Samples from the narcotic drugs and psychotropic substances seized, must be drawn at the place of recovery, in duplicate, in the presence of search (Panch) witnesses and the person from whose possession the drug is recovered and a mention to this effect shall invariably be made in the panchanama drawn on the spot.

Quantity of different drugs required in the sample :

4. The quantity to be drawn in each sample for chemical test should be 5 grams in respect of all narcotic drugs and psychotropic substances except in the cases of Opium, Ganja and Charas / Hashish where a quantity of 24 grams in each case is required for chemical test. The same quantities should be taken for the duplicate sample also. The seized drugs in the package/containers should be mixed well to make it homogeneous and representative before the sample in duplicate is drawn.

Number of samples to be drawn in each seizure case :

5 A. In the case of seizure of a single package/container one sample in duplicate is to be drawn. It is advisable to draw one sample in duplicate from each package/container in case of seizure of more than one package/container.

B. However, when the package/containers seized together are of identical size and weight, bearing identical markings and the contents of each package give identical results on colour test by UN kit, conclusively indicating that the packages are identical in all respects, the packages/ container may be carefully bunched in lots of 10 packages/containers. In case of seizure of Ganja and Hashish, the packages/containers may be bunched in lots of 40. For each lot of packages/containers, one sample in duplicate may be drawn.

C. After making such lots, in the case of Hashish and Ganja, if less than 20 packages/containers remain, and in case of other drugs less than 5 packages/containers remain, no bunching would be necessary and no samples need be drawn.

D. If it is 5 or more in case of other drugs and substances and 20 or more in case of Ganja and Hashish, one more sample in duplicate may be drawn for such remaining package/containers.

E. While drawing one sample in duplicate from a particular lot, it must be ensured that representative drug in equal quantity is taken from each package/container of that lot and mixed together to make a composite whole from which the samples are drawn for that lot.

Numbering of packages/containers.

6 A. Subject to the detailed procedure of identification of packages/ containers, as indicated, each package/container should be securely sealed and an identification slip pasted/attached on each one of them at such place and in such manner as will avoid easy obliteration of the marks and numbers on the slip. Where more than one sample is drawn, each sample should also be serially numbered and marked as S-1, S-2, S-3 and so on, on both the samples. It should carry the serial number of the packages and marked as P-1, 2, 3, 4 and so on.

B. All samples must be drawn and sealed in the presence of the accused, search witnesses and seizing officer and all of them shall be required to put their signatures on each sample. The official seal of the seizing officer should also be affixed. If the person, from whose custody the drugs have been recovered, wants to put his own seal on the sample, the same may be allowed on both the samples.

Packaging and Sealing of Samples.

7 A. The sample in duplicate should be kept in neat sealed plastic bags, as it is convenient and safe. The plastic bag container should be kept in paper envelope, properly marked as original or duplicate. Both the envelopes should also bear the Sl. No. of the package(s) container(s) from which the sample has been drawn. The duplicate envelope containing the sample will also have a reference of the test memo. The seals should be legible. This envelope along with test memos should be kept in another envelope, which should also be sealed and marked "Secret-Drug Sample/Test memo" to be sent to the FSL.

B. All drugs should be properly classified, carefully weighed and samples drawn on the spot of seizure.

C. After sampling, detailed inventory of such packages/containers should be prepared for being enclosed to the Panchanama, Original wrappers must also be preserved for evidentiary purposes.

D. After completion of panchanama, the drugs should be packed, in neatly sealed plastic bags. For bulk quantities of ganja, instead of plastic bags, gunny bags may be utilised.

8 A Agencies of the Central and State Government, who are vested with the powers of investigation under the law, specifically designate their godowns for storage purposes.

B. All drugs must invariably be stored in safes and vaults provided with double-locking system. Such godowns, as a matter of rule, be placed under the overall supervision and charge of a Gazetted Officer of the respective enforcement agency, who should exercise utmost care, circumspection and personal supervision, as far as possible. Such officers should not be below the rank of Superintendent in the Departments of Customs, Central Excise, Directorate of Revenue Intelligence, Narcotics Control Bureau, CBI, BSF, and station house officer/officer in charge of a Police Station. Superintendent of State Excise, Tahasildar, Drug Inspector of Drug Control Department, etc., in the states and enforcement agencies in Union Territories. They will personally be held accountable for safety and security of the drugs. Each seizing officer should deposit the drugs fully packed and sealed with his seal in the godown within 48 hours of seizure of such drugs, with a forwarding memo indicating Crime Number, name(s) of accused, test memo reference, description of drugs in the sealed packages/containers and other goods, if any, drug-wise quantity in each package/container, drug-wise number of packages/containers and total number of all packages/ containers.

C. The seizing officer, after obtaining an acknowledgement for such deposit in the format (Annexure-I), will hand over the same to the investigating officer of the case along with the case file for further proceedings.

D. The officer-in-charge of the godown, before accepting deposit of drugs, will ensure that the drugs are properly packed and sealed. He will also arrange the packages/containers (case-wise and lot-wise) for quick retrieval etc.

E. The godown in-charge is required to maintain a register wherein entries of receipt should be made.

F. It will be incumbent upon the Inspecting Officers of the various departments mentioned to make visit to the godowns for ensuring adequate security and safety and for taking measures for timely disposal of drugs. The Inspecting Officers should record their remarks/ observations.

G. The Heads of respective enforcement agencies (both Central and State Governments) may prescribe such periodical reports and returns,

as they may deem fit, to monitor the safe receipt, deposit, storage, accounting and disposal of seized drugs.

9 A. Since the early disposal of drugs assumes utmost importance, the enforcement agencies should obtain orders for pre-trial disposal of drugs and other articles (including conveyance, if any) by having recourse to the provisions of Section 451 of the Cr. PC.

B. While preferring the application under Section 451Cr.PC before the Court of Session, emphasis may be laid on 'expediency of disposal'. The grounds that may be high-lighted pertain to.

i. Risk of pilferage, theft and substitution

ii. vulnerability for abuse

iii. High temptations to traffickers

iv. diminution in the value of other articles (including conveyances) due to long storage, etc.

C. Since the filing of charge sheet is a condition precedent for expeditious issue of orders for pre-trial disposal, charge sheet should be filed within the stipulated period of 90 days of seizure/arrest, on a priority basis. This should meticulously be adhered to.

D. While moving the application under section 451 of the criminal procedure code as above, production of all seized/articles/drugs, etc., along with the panchanama (in original) and detailed inventory thereof is essential. The inventory should be complete in all respects and contain such particulars as may be relevant to establish nexus/identity of articles. The chemical analysis report should also be simultaneously filed.

E. After the court orders are passed for pre-trial disposal of drugs, those drugs which have no legitimate commercial value (excepting opium, morphine, code in and the baine, which are required to be transferred to the Government Opium and Alkaloid Works Undertaking at Ghazipur or Neemuch, as the case may be) are required to be destroyed consistent with the guidelines issued under this order and in accordance with the Court's order.

(J) Organized Crime

543-1A. "Organised crime" means any continuing unlawful activity by an individual, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or coercion, or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other person or promoting insurgency.

"Organised crime syndicate" means a group of two or more persons who, acting either singly or collectively, as a syndicate of gang indulge in activities of organised crime;

"Continuing unlawful activity" means an activity prohibited by law for the time being in force, which is a cognizable offence punishable with imprisonment of three years or more, undertaken either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate in respect of which more than one charge sheet have been filed before a competent court with in the preceding period of ten years and that court has taken cognizance of such offence;"

B. Organised crime is committed against property, persons or human welfare, engineered by a leader with members professing fierce loyalty. Organised crime in a large measure affects law and order and public order. The terms mafia crime or mafia gangs are used in common parlance to mean organised crime and criminal gangs.

C. There are crimes like causing injuries or killing for gain. Groups of people are also hired to injure or kill somebody due to political, business or group rivalry or some other reason. The actual perpetrators receive remuneration and the person who engages them remains aloof or away.

D. Multi-level Marketing / Ponzi schemes, Trafficking in persons, sand smuggling, Boot legging, prostitution, gambling, manipulation of bids or tenders in auctions and contracts, land grabbing, illegal possession or dispossession of property, protection money, rigging elections, loan sharking (usury), extortion, kidnapping for ransom, drug trafficking, illicit trade in fire arms, explosives, smuggling, thefts of antiquities and cultural properties, trading in animal skins and human organs are some of the activities of criminal groups, which are sometimes small outfits and sometimes large. The area of operation of these groups may extend to districts or states or even countries. There are groups bound to an individual or to each other. Generally there is always a leader or head of such groups. The criminal net works maintain 'cut outs' i.e., A operates through B, 'B' gets the offence committed by 'C'. If 'C' is apprehended he would not know about 'A'.

E. Some of the groups are so well organised that they are able to perpetrate crimes without being caught or punished. It means they must have certain code of conduct, abilities, equipment, arms, and intelligence within the group and power to have their way. Sometimes, they resort to elimination or threatening to the persons who come in their way including witnesses, informers, police officials, lawyers or judges or politicians or alternately try to buy their support by bribery

and collusion. They infiltrate into political parties and use muscle power to manipulate elections and even occupy positions of political power. Therefore, at the one end of spectrum there are small criminal organisations operating in a limited sphere quietly and at the other end, more sophisticated outfits with all attributes of a mafia gang. The vast network of modern communications and transport facility provides opportunities for organised crime to thrive.

F. The purpose of organised crime is mainly to make illegal money. These organised groups have a complex network with well-defined structure and command and control and use force or violence in perpetration of crimes. Investigation into organised crime therefore, calls for a highly professional approach, intelligence and investigative skills and well knit coordination at inter-district, inter-state and international levels.

2 A. There are several laws to deal with each one of these activities. It is necessary that the IO is familiar with those provisions of law.

B. The legal provisions relating to confiscation of proceeds of crime are contained in Prevention of Money Laundering Act,(Ref.PSO No.524) and in sections 102, 452 of Cr.PC, 111 to 121 of Customs Act, section 68 of NDPS Act . The Criminal Law (Amendment Order 1944), Foreign exchange Management Act 1999 (FEMA) and the Smugglers And Foreign Exchange Manipulation (Forfeiture of Property) Act 1976(SAFEMA) also relate to forfeiture of proceeds of crime. APPDFE (AP Protection of Depositors of Financial Establishment Act) also envisages auction proceedings of ill gotten money/property.

C. Organised crime such as the drug trafficking, employment racketeering, boot legging, goondas, indulging in land grabbing, contract killing, kidnapping, extortion, rigging in election, money laundering has been existing in the State.

D. Every district/city and state CID should have an Investigating Unit devoted to identification and investigation of organised criminal activity. The criminal records from PS level to state should contain the information in respect of all such criminal syndicates, members, leaders, M.O. and connected details. The Police have the responsibility of identifying, exposing and taking all such preventive action in respect of all manifestations of organised criminal activity. The SsP/CsP should constitute Multi-Disciplinary Investigating teams with Income Tax officers, Customs Officers, Forensic auditors, Cyber specialists to unearth the hidden networks.

3. The points to be borne in mind by IOs Investigating into offences by organized gangs are as stated below :

A. The persons have associated themselves to form a criminal gang.

B. The object of the association was habitual commission of murders, kidnapping for ransom, contract killing, loan sharking, trafficking in women and children, smuggling of cultural properties, dealing in prohibited liquor, land grabbing and deals collection of protection money i.e extortion, illegal dealing in fire arms, explosives, smuggling, etc. (dacoities, burglaries, robberies including highway and train robberies, thefts in cases of gangs / groups of property offenders).

C. Evidence of joint conviction in previous cases.

D. Evidence that certain members of the gang were jointly prosecuted or bound over under the preventive provisions of law.

E. Evidence of the frequent meeting or contact amongst the members.

F. The recovery of property or other incriminating materials or documents stolen in a single case from several members of the gang.

G. Evidence of simultaneous absence of members from their homes coincident with the occurrence of offences.

H. Evidence of the cessation of the crime, of that nature committed by the gang, in the affected area after the arrest of the gang.

4. Identify whether the offence has one of the attributes of an organized crime.

A. Collect details of all such or similar offences reported. Obtain digital evidence from Cell phones, laptops, pen drive etc. Sec.65-B Evidence Act proforma to be collected from Service providers.

B. Identify the members of the gang and the leader and initiate measures to trace them.

C. Examine victims or their friends or relatives minutely with regard to identity, background and all details about the members of the gang.

D. Collect all clues, even minor or seemingly unimportant pieces that are likely to help connecting the accused to the crime.

E. Take charge of all relevant papers, documents, letters or bank cheques, drafts or any paper or material that comes to notice and scrutinize the same.

F. Question the suspect minutely and record his statement in detail.

G. If the evidence collected after exhaustive investigation is inadequate, efforts should be made to make one of the weaker participants in the offence as an approver to prosecute main offenders successfully.

H. Identify the country in which the proceeds of crime are stashed away or hidden or kept. Efforts should be made to seize and forfeit the same. This is the most effective way of neutralising organised gangs. Investigating Officer should get letter rogatories issued under section 166-A Cr. PC and take action u/s 188 Cr.PC.

I. Make foolproof arrangements to maintain secrecy and protection to informers and witnesses.

J. The evidence should be gathered as to conspiracy, abetment, common intention, membership of a criminal organisation, activities of the criminal organisation, etc., apart from the illegality of the act or acts committed by them for effective prosecution.

K. Make use of all information available in criminal records.

L. Initiate proceedings under section 110 Cr. PC against the members of the gang. Insist on a bond u/s 106 Cr.PC, in the event of conviction wherever, applicable.

M. Consult and take assistance of concerned experts for appraisal of any aspect that relates to Tax Laws, Accounts, Banking, Science, Engineering, Technology including Information Technology, Art pieces and Archaeology, flora and fauna etc.

N. Use Polygraph and other Deception Detective Techniques tests whenever possible.(with the consent of the Suspect/accused).

O. Take hold of all information relating to telephone calls either by landlines or satellite channels or cell phones and analyse. Authorisation of interception of wire, electronics or oral communication should be obtained as per the Indian Telegraph Act, 1885.

P. Contact pay phone booths used by the gang members.

Q. Seek help of CID and INTERPOL through CID when assistance from abroad is required. Be familiar with section 166 A & B Cr. PC.

R. Every detail of the statement by the accused must be verified before acting.

S. Scrupulously follow all procedure in respect of preservation, packing and forwarding material evidence for expert opinion or to the Court.

T. Since the organised criminal syndicate members keep their activities secret, it is essential that every bit and piece of information and evidence is promptly brought on record and capable of being proved in the court. Telephone print outs, cell phones, pen drivers and computer information would be extremely useful in providing the missing links.

Inter State Crimes and Co-ordination to bring the offenders to Justice

Criminal gangs (property/ Bodily/white collar) operate across the Country as they have speedy escape routes, having secret net works, cut outs (main leader will not come to the scene-operates through 2nd or 3rd person). The gangs thrive because of quick disposal of stolen property and have a good legal support with some advocates taking up their cause. Since all the PSs in the Country are yet to be networked through the proposed CCTN (Crime- Criminal- Tracking Network), it has become difficult to document their offences at cross country level and even if they are arrested in a particular State, the other police agencies would not come to know to take them on production warrants u/s 267 Cr. PC. The problem is that most of the receivers in the State / Country are marked as witnesses instead of booking them u/s 411, 412, 413 & 414 IPC.

Some of the notorious gangs would never be arrested after they go out on bail, as they change their place of stay. Often the I.O.s / SHOs are not obtaining the U.I.D card/Cell Phone/ ration card data of the accused to confirm his exact identity. FICN (Fake Indian Currency Note) gangs of Malda, Kolkata of West Bengal, Katni of MP, Pawar dacoity gang of Yavatmal, Chandrapur, Parbhani, Pune, Mumbai. Their data has to be uploaded in F.P.B., and Police Intranet.

Diversion of attention gangs of Gollakuppam of Nagari, PS of Chittoor Dr. Ramji Nagar of Thiruchi District are active across the South.

The Pseudo-police (Irani) gangs of Bhivandi (Maharashtra), Guntakal, Bidar, Gulburga, Shivaji Nagar of Pune, Nagpur are quite active.

Cross-Country shutter-lifting gangs (who loot entire cell phones) watches/ Videos/ Laptops/camera shops) of Godesha PS of East Champaran District of Bihar State (Nepal border) are quite active. The local police need to be taken into confidence while arresting.

Human Trafficking gangs of Bhudhvarpet, Pune (Faraskhanpet P.S limits), Hanuman Tekdi PS of Bhivandi of Maharashtra, Nagpahad PS of Mumbai city, GB Road of Kamala market PS of New Delhi, Sonagachi of Kolkata are quite active in committing offences u/s 370, 366-A, 366-B, 372, 373 IPC r/w Immoral Traffic(prevention)Act.

HB gangs of Kapparala Tippa of Bitragunta P.S. of Nellore District, Seethanagaram of Tadepalli P.S., Stuvartpuram P.S. of Guntur district, Vetapalem of Prakasham Dist.Tuggali-Maddikera of Kurnool District, Hindupur of Anantapur district are quite active across the State and Karnataka State.

Peddinti Golla gangs of Garugupalem of Chebrolu P.S., Gandhi Nagar of Venkatagiri, Jami village of Vizianagaram district, Garugupalem of Guntur District, Gokavaram of Kakinada are highly active and they sell stolen articles mostly in Aska of Gopalpur district of Odisha State.

Bag lifting women gangs of Chirala (Ram Nagar) of Prakasham district, *Stuartpuram* of Guntur district, Bandi Atmakur of Kurnool district, Kapparalla Tippa of Nellore district, Gokavaram of East Godavari district are active all over the State.

Ganja-smuggling gangs of Salem operating from G.K. veedhi / K.D pet PS of Visakhapatnam (R) District, who collect ganja from Visakha rural area, Narsampet, Balpal, Dornakal of Warrangal Dist, Maredmilli PS of East Godavari District have formed into a big net work.

Nigerian 419 fraud cases/ fake Lottery and Cocaine- Drug Seller gangs operating from Mumbai, Delhi, Pune- Bangalore are active in A.P. and Telangana.

Indian Mujahiddin (IM) gangs banned under unlawful Activities (prevention) Act 1967 in June 2010, USA declared IM as Terrorist Organisation in 2011. Planting IEDs (Improvised Explosive Devices) across the Country, targeting Politicians and civilians is their objective.

Methodology

1) Interactive liaison with concerned SsP/ CsP & Crime Branch of the respective units/States.

2) Interrogation of arrested accused and ascertaining names, addresses and cell phone numbers of Co-accused.

3) Immediately opening suspects sheets and sending a copy of FIR etc., to the concerned SsP/DCP in whose jurisdiction he resides.

4) Transfer of Finger Prints through intranet to the SsP with all details.

5) Sending Crime teams to various states with advance liaison with copy of FIR (Certified by Court) and Photo copy of CD file.

Legal procedure

1. Request M.H.A., New Delhi to open L.O.C.(Look Out Circular) against the absconding accused.

2. Obtaining Transit warrant u/s 267 Cr.PC.

3. Obtaining search warrant u/s 93 & 94 Cr.PC

4. Obtaining arrest warrants (u/s 70,71,72,74 Cr. PC)

5. Arrest warrant u/s 73, 78 Cr.PC (warrant) may be directed to any person/ SsP/CsP/SHO in the country

6. Sec. 77 (A warrant may be executed at any place in India)

7. Proclamation of person absconding (82 Cr.PC) if SHO fails to execute the warrant and take up attachment proceedings u/s 83 Cr.PC.

   In case of Red Corner Notice obtain undated NBW.

a. Attachment of property of absconding person (Sec. 83 Cr.PC)

b. Notice u/s 160 r/w 91 Cr.PC for production of document.

c. Arrest and remand outside AP u/s 167 (2) Cr. PC requesting Court to Produce the accused before the Jurisdictional Trial Court.

d. In case an accused is lodged in outside State Jail, request the Jurisdictional Court to issue prisoner Transit warrant u/s 267 Cr. PC with FIR and relevant remand CD.

e. Search should be according to 100 r/w 165 Cr.PC r/w Sec. 47 Cr.PC

f. Sec. 48 r/w 77 Cr.PC

g. Examination of accused by medical Practitioner (Sec. 53 Cr.PC at the instance of Police requisition for evidence collection and of the arrested person (Sec. 54 Cr.PC)

h. Holding T.I parade (Sec. 54 A Cr. PC)

i. Obtain sample hand writings and Signature (u/s 311 A Cr.PC)

j. Requisition for video Trial (u/s 275 Cr.PC if you are unable to get PT warrant for the accused.

k. Request the witnesses who are threatened by accused to file a "complaint' u/s 195 A Cr. PC punishable u/s 195-A IPC.

l. Write to Enforcement Directorate to file E.C.I.R.(Enforcement Case Information Report) for matters that fall under P.M.L.A.

Property Offences by a Gang

544 Persons associated for the purpose of habitually committing theft or robbery or dacoity are said to be members of a gang as per section 400 and 401 of IPC. The successful handling of offences by a gang usually involves painstaking and sustained investigation. All such cases should be investigated by Crime Investigation Department directly or on the request of District or City Investigation Branch due to the extensive operation by the gang in more than one district and to have a coordinated approach in investigation of these cases. If it is a purely local gang confined only to District or City the District Investigation Squad or City Investigation team should handle the investigation.

1. These offences are heinous in nature punishable with imprisonment up to life. These cases must be investigated scrupulously bringing out the complicity of all accused on record. In cases where evidence is inadequate to fully prove the case, a weaker participant may be taken as an approver. However, an approver being an accomplice, corroborative circumstantial evidence is necessary. Hence IO should endeavour towards this goal. The essential points to be proved in an offence against a gang are the same as described in Order 543-3.

2. All gang cases and all important conspiracy cases whose ramifications extend to several districts should be investigated by the Crime Investigation Department (CID). When a gang case is to be charged, the memorandum of evidence must be carefully prepared showing the available evidence including Electronic evidence with location of Cell phones on the day of offence, names of receivers of Stolen property etc., to show the number of instances in which each accused is involved, the nature of evidence against each of them and the names of witnesses who depose against each of them. The nature of convictions (with CC/SC Nos.) against them in the following proforma:

Sl. No.	Name & Addresses of offenders with their Cell Nos.	Aadhar Card No. Ration Card details	How he came in contact with other gang member Prison/ committing offence/same village etc.	Involvement Crime No. Sec. of law Police station.	Property lost / Property recovered	Present stage of the case	If convicted SC/CC No. with court details & conviction particulars.	If UI/PT details
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

A. Organized criminal gangs are a serious threat and it is sometimes difficult to detect and get evidence of their association and activity as

the members of organized crime are bound together by fierce loyalty, gain, protection, ruthless elimination of all those who come their way. It is their activity, which poses a threat and challenge to the Police and calls for all investigative skills of the highest order. Audio-Video recording of statements of victims u/s 161(3) Cr.PC will be helpful.

B. Officers investigating into organised crime and offences by a gang shall take adequate but unobtrusive security cover.

Gang cases against robbers/dacoits

544.3. Gang cases can be put up against the persons who belong to a gang of persons associated for the purpose of habitually committing Dacoity (U/s 400 IPC) and Theft or Robbery (U/s 401 IPC). The essential ingredients required are:

a. That there was a gang of dacoits/thieves or robbers.

b. That the accused belonged to that gang.

c. That the said gang was associated for the purpose of habitually committing Dacoity / Theft or Robbery.

544.4. A person may belong to a gang of dacoits/thieves or robbers without having actually participated in the commission of even one Dacoity/ Theft or Robbery. A clever member may always remain in the background while organizing the operations of the gang, giving active assistance for the purpose of meeting together, providing them with weapons, screening them after the commission of offence, helping them in the disposal of looted property. It is essential that professional receivers of Stolen property are brought on record u/s 411 IPC also 412, 413 IPC without any mercy.

544. 5. If a gang was formed for the purpose of habitually committing dacoities / thefts or robberies, all persons, who thereafter join the gang in one or more cases become *ipso facto*, the members of such gang. A person who joins a gang of habitual dacoits, thieves or robbers is a member of the gang irrespective of his actual participation in any dacoity / theft or robbery. It is to be proved that his associates are habitual dacoits/thieves or robbers.

544. 6. A receiver of stolen property or a person harbouring a gang may not be held to belong to that gang. Persons who associate with the gang for the purpose of friendship sake or join them in drinks at liquor shops or meet them in fairs, weddings or other social functions are not members of the gang. Servants and dependants of gangs are not members of the gang.

544. 7. Proof of participation in more than two dacoits/thefts or robberies, within a comparatively short space of time is necessary to prove the existence of a gang. It is sufficient to establish that a person belongs to a gang whose business is habitual commission of dacoity or theft or robbery. In a gang case direct evidence of association of a particular accused with the gang may ordinarily be given only by an approver and other witnesses will speak of association on occasions immediately preceding commission of the offence. The association and purpose of association may be proved by direct evidence or by proof of facts from which they can reasonably be inferred. Evidence that the accused persons or groups of them had been concerned in a large number of dacoities or thefts or robberies within a comparatively short space of time, may be sufficient evidence of such association. Evidence which though not believed for the purpose of conviction under section 395 IPC may yet be relied upon for the purpose of proving the charge U/s 400 IPC. The purpose of habitually committing dacoity or theft or robbery may be proved by their declaration or by their conduct. The only relevant evidence here consists of their conduct in having participated in different dacoities or thefts or robberies. The principal evidence adduced by the prosecution falls under the following heads:-

A. The evidence of approver narrating how the members of the gang conspired and assembled for each dacoity / theft or robbery and committed it and divided the booty.

B. That of the evidence of victims of each dacoity / theft or robbery and of direct witnesses, identifying accused in Court at the Test Identification Parades.

C. That of recovery of properties lost at the dacoity /theft or robbery from the possession of the various accused and

D. That of previous convictions of some of the accused.

544. 8. The consent of State Government U/s 300(2) of Cr.P.C. is required to prosecute the accused in a gang case if he is acquitted or convicted in any dacoity/theft or robbery.

Conspiracy Cases :

545. Criminal conspiracy is an agreement entered into by two or more persons with a purpose to do an illegal act or to do an act, though not illegal, by illegal means. Criminal conspiracy is itself an offence whether the act conspired is committed or not. It is not necessary that each conspirator should know or be aware of every act of the others. It is often difficult to prove conspiracy by direct evidence. But it is mostly by circumstantial evidence relating to the sequence of

events, the offences committed, conduct, meetings and contacts of the accused that agreement among them is sought to be proved. Abetment by conspiracy is punishable under section 107 (2) IPC. However, a person who abets the cause of conspiracy is an offender only when the offence is committed.

Investigation of Terrorist Crime

546-1A Sec.15 of **Unlawful Activities(Prevention) Act, 1967:**

Whoever, does any act with intent to threaten or likely to threaten the unity, integrity, security, economic security or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country,-

(a) By using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisonous or noxious gases or other means of whatever nature to cause or likely to cause-

i. Death of, or injuries to, any person or persons; or

ii. Loss of, or damage to, or destruction of, property; or

iii. Disruption of any supplies or services essential to the life of the community in India or in any foreign country; or iii-a) damage to, the monetary stability of India by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, coin or any other material; or

Damage or destruction of any property in India or in a foreign country used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies; or

(b) overawes by means of criminal force or the show of criminal force or attempts to do so or causes death of any public functionary or attempts to cause death of any public functionary; or

(c) detains, kidnaps or abducts any person and threatens to kill or injure such person or does any other act in order to compel the Government of India, any State Government or the Government of a foreign country or an international or inter-governmental organization or any other person to do or abstain from doing any act; or commits a terrorist act.

B. Offences committed by terrorists are not only covered under the Indian Penal Code but also under other laws such as Unlawful Activities (Prevention)Act, 1967, Arms Act, Explosives Act, Explosives Substances Act, Telegraphs, Railway Acts, etc. The most common offences committed by them are murder, extortion, kidnapping, and damage to private and public property, criminal assault and intimidation, offences under Chapter VI apart from causing explosions. The targets of attack are those whom they perceive as opposed to their cause, e.g. police and security personnel, witnesses and informers. Extortions from merchants, businessmen, contractors, professionals like doctors etc. are resorted to finance their activities. All offences are pre-planned. An elaborate clandestine network provides shelter and support and communication and other logistics. Terrorist acts are intended to terrorise the targets, witnesses and overawe the instruments of the State and are linked to a cause or grievance whether real or imagined. The terrorist movements all over the world have a variety of objectives such as separatist, left wing, and religion based, ethnic or downright criminal. In India all the forms of terrorism have become serious problem for public order and for internal security. In AP State, left wing terrorism by various groups of CPI (Marxist - Leninist) parties is a major threat to public order and security of the state.

Terrorist use multiple SIM cards in their conversation to divert police attention.

546.2. Investigation of offences committed by terrorists and bringing them to justice presents many problems such as non-availability of witnesses etc. The aim of all terrorists is to utilise the liberal provisions of law to their advantage and subvert the criminal justice system by persistent attacks both physical and psychological. Some of the more serious problems the police come across in investigating offences by terrorists are:

A. Identity of participants of crime is carefully concealed by false/pseudo names, while identity of the organisation is publicised.

B. Unwillingness of witnesses to identify the accused even if they have seen or known them due to fear of being harmed/eliminated at the hands of accused or their organization. Sometimes there will be no eyewitness at all.

C. Movement in groups fully armed with firearms, IEDs(Improvised Explosive Devise) and explosives and attack on police personnel to terrorise the state machinery and to create panic among the general public besides avoiding being caught.

D. Recovery of properties or incriminating materials is difficult owing to their movements in different places under code names and other inaccessible areas fully armed. Similarly recovery of money is not always possible as it is used for purchase of provisions, medicines and weapons etc.

E. Most cases need investigation spreading over different parts of the Country and abroad and remote and inaccessible areas.

F. Use of land mines restricts free movements of police in forest areas or even Bitumen roads in interior areas.

G. Absence of public cooperation and quite often hostility to investigations due to fear, and support by certain sections of the people to the cause being espoused by the terrorists.

H. The application of normal provisions of law in matters of arrest, bail, remand and evidence based on presumption of innocence give enormous advantage to the terrorists. A number of advocates are employed by them to create hurdles to police at every stage.

Steps for Arresting the Accused

546.3.A. A complete description, photograph or computer aided picture should be prepared and circulated extensively in the local area police station, villages, and published in papers and televised. The picture should be prepared if a photograph is not readily available. The special intelligence groups should be associated with investigation.

B. The trained groups along with Area Police should be provided a complete brochure and steps to be taken, the area to be covered for a well directed search operation and capture of the wanted group or persons.

C. When any arrest is made the materials recovered from such persons, and search of places at his instance should be well documented, and the materials seized should be promptly sent for expert opinion.

D. The resistance to arrest is likely in such cases. In effecting arrest no force than what is permissible under the law should be used. All guidelines regarding arrest should be complied with.(Sec.41, 41-A to 41-D Cr.PC)

E. Police remand for 15 days should be obtained u/s 167 Cr. PC from the court for thorough interrogation.

F. Plan and act fast on any information the accused furnishes during interrogation.

G. Keep reporting to the Magistrate all recoveries as and when made.

H. During examination of witnesses or suspects follow the questionnaire circulated by the CID as applicable to each case.

I. Keep all forms and papers ready so as to send them duly filled to the concerned.

J. Keep in constant touch with SsP or DCP or CP concerned.

K. Arrange for proper briefing of Public Prosecutor (PP).

546.4. Protection of witnesses and informants is vital in the investigation and prosecution of the accused in such cases.

546.5. The important steps to be taken during the trial -

A. Make arrangements in consultation with PP and SP to impress upon the competent court to try offences expeditiously.

B. Follow all steps indicated in the Chapter on Prosecution.

C. Depositions of witnesses should not be released to the press as it may pose a threat to the security of witnesses.

D. Strong protection to the trial judge, IO and court premises should be ensured, if necessary.

E. Escorting from jail to court and back should be by vehicle along with proper guard.

F. No more documents or material should be furnished to the accused than are required under the law.

G. Anticipatory bail or regular bail in these cases should be opposed effectively by furnishing relevant material/facts to the concerned court

H. There should be constant interaction between PP/Addl. PP and IO during the investigation and trial of these offences.

National Human Rights Commission's guidelines for investigating cases of death in Police encounters.

(Refer PSO 500 for details of Apex court Judgment in PUCL Vs. State of Maharashtra Crl. Appeal No.1255 of 1999 dt.23-9-2014 wherein the Supreme Court of India postulated 16 principles to be followed by Police while investigating exchange of fire cases.)

546.6. The National Human Rights Commission has recommended the following procedure to be followed in cases of deaths in police encounters.

A. When the police officer-in-charge of a Police Station receives information about the deaths in an encounter between the Police party and others, he shall enter that information in the appropriate register.

B. The information as received shall be regarded as sufficient to suspect the commission of a cognizable offence and immediate steps should be taken to investigate the facts and circumstances leading to the death to ascertain what, if any, offence was committed and by whom.

C. As the police officers belonging to the same Police Station are the members of the encounter party, it is appropriate that the cases are made over for investigation to some other independent investigation agency, such as State CID. Alternatively such cases may be investigated by an officer of the rank of Dy. Supdt. of Police/SDPO of some other district.

D. Question of granting of compensation to the dependents of the deceased may be considered in cases ending in conviction, if police officers are prosecuted on the basis of the results of the investigation.

546-7 INVESTIGATION ABROAD

Increasing number of cases of economic crimes have foreign investigation component. Main issues of relevance relating to investigation to be carried out in foreign countries for the purpose of collection of evidence, seeking international co-operation through Interpol, service of summons in foreign countries, apprehension of absconders are the following:

1. INTERPOL – References & Notices
2. Look Out Circulars to take and detain a wanted accused
3. Extradition/ Deportation and extradition Act u/s 166A/ 166 B Cr.PC.
4. Letters Rogatory
5. MLATS (Mutual Legal Assistance Treaties)
6. Memorandum of Understanding (MOU)

Main points of consideration during investigation as regards these issues are addressed in the following paras.

546.8. INTERPOL References and Notices

The International Criminal Police Organization(ICPO), headquartered in Lyons, France is more famously known as Interpol. The Headquarters of Interpol is called the Interpol Secretariat General (IPSG). Interpol is essentially an organization which is the product of coming together of various countries to coordinate on issues of relevance to the police without having to go through the time consuming and sometimes tedious diplomatic channels. All the member countries of Interpol have designated one of their agencies to serve as the National Central Bureau (NCB) of Interpol in their respective countries. The Central Bureau of Investigation (CBI) has been so

designated in India. The NCBs are routinely referred to as IP-Location. For instance, the National Central Bureau for India is referred to as IP- New Delhi in Interpol parlance. Similarly the NCBs of USA and Pakistan are referred to as IP- Washington and IP-Islamabad, respectively.

The NCBs are networked to each other and ICPO Hqrs France at Lyons by various communication channels such as telephone, FAX, e-mail and most importantly by means of a dedicated and secure system called I-24/7 Network. The NCBs co-operate and coordinate with each other with respective police / agencies level in various matters namely collection of information, location of fugitives/persons etc. These services are available only for the purposes of providing assistance in matters which fall within the Charter of Interpol. For instance, Interpol does not provide services in matters related which have a political or military character or overtones.

546.9. How to seek Interpol assistance?

Police forces and agencies involved in criminal investigations within India can requisition international assistance by means of a reference to NCB- India, which can then seek the requisite information from the concerned foreign NCB through any of the available channels. Such assistance can be sought in matters related to location of persons, verification of addresses or telephone numbers, ascertaining contact information of various authorities, intimation of travel programmes for coordinating visits of investigating teams, passing on actionable intelligence in matters related to cyber crimes, child pornography, child sex abuse, smuggling of contraband items such as narcotics etc.

References to NCB-New Delhi are to be sent through the duly designated Interpol Liaison Officer (ILO) of the concerned agency/ state. ADG, CID is the designated ILO for the state of A.P., the concerned investigative agencies/officers are required to send a request addressed to the ILO mentioning therein the information required from the foreign country. It is advisable that the requesting/ agency/officer also encloses, with the said memo, a draft message (normally a draft I-24/7 message) which NCB- India may further relay to the concerned foreign NCB or ICPO Lyons for necessary action at their end. In emergent cases a copy of such memo along with enclosures may also be sent to NCB- India at the following contact address:

Assistant Director (Interpol Wing),

Central Bureau of Investigation,

Block No.IV, CGO Complex, Lodhi Road,

New Delhi - 110003.

546.10. Interpol Notices

ICPO (Interpol) provides excellent services for locating fugitives, disseminating warning, identification of dead bodies etc, by means of publication of special notices known as Interpol notices. These notices have, *de facto*, come to define the most important role of Interpol. The notices being published by Interpol and their role and character are outlined below; various factors to be kept in mind while requesting for publication of these notices are also briefly outlined.

1 'A' Series Notice or Red Corner Notice (RCN)

RCNs are also known as ' wanted notices' Their purpose is to locate and arrest wanted fugitives for facing prosecution. In some countries, RCN is treated as a valid request for provisional request and may lead to apprehension of the fugitive on being located by a law enforcement agency. India treats RCN as a valid request for apprehension as per Sec.41(1)(g) of Cr.P.C.

How it works -

1. Request is submitted by investigative agency to NCB
2. Request from NCB to IPSG(Hq of Interpol at Lyons France)
3. Notice issued by IPSG to all NCBs. Each notice is assigned a unique control number.
4. NCBs circulate the notice to all police and immigration authorities
5. Accused may be arrested, if located.
6. Accused will be detained while entering into / leaving India through international airports.

546.11. Requirements-

a. Open ended warrant of arrest against the fugitive

b. Fugitive should not be wanted for a case of military or political character

c. The charges against the accused should constitute an extraditable offence. (principle of dual criminality)

Form for submitting request for issue of RCN is available in internet and communicated by CID to all SsP/ CsP/SsRP)

It can also be down load from CBI website from **http:// www.cbi.gov.in/interpol/rcn_applicationform.pdf.** The following important information must not be overlooked while filling this form:

a) Name of the fugitive- First name and last name should be correctly mentioned.

b) Known aliases/nicknames

c) Father's name / Mother's name with Aadhar card no.

d) Date of Birth(if available)

e) Identification marks (if known)

f) Latest photograph of the fugitive (if available)

g) Passport No.(if available) (Investigating Officer should secure the passport number from the office of Regional Passport Officer / DIG Counter Intelligence Cell of Intelligence Department.)

h) Nationality (if known)

i) Brief facts of the cases against the fugitive with Section of Law.

j) Details of the open dated warrant/s of arrest against the fugitive

Important: In case date of birth of the fugitive is not available, an approximate date may be given.

RCN is initially issued by IPSG for a period of One year and is required to revalidated thereafter, at the request of concerned NCB.

2. 'B' Series Notice or Blue Corner Notice

Also known as 'enquiry notice'. A blue notice is issued by IPSG at the request of an NCB when additional information about the activities or Identity of an individual is required in connection with a crime.

3. 'C' Series Notice or Green Corner Notice

Green notice is issued to provide intelligence and warnings to Interpol member countries about activities of criminals likely to repeat crimes in foreign countries and their modus operandi. These are particularly used by IPSG in relation to known pedophiles.

4. 'D' Series Notice or Black Corner Notice

Black notice is issued by IPSG at the request of an NCB in connection with identification of unidentified dead bodies. This should invariably be got issued on discovery of an unidentified dead body in the jurisdiction of an investigative agency if the dead body is reasonably suspected to be that of a foreign national.

5. 'E' Series Notice or Yellow Corner Notice

This notice is issued to help locate missing persons, often minors, or to help identify persons who are unable to identify themselves.

6. Orange Corner Notice

This notice is issued to warn police, public entities and other international organizations about potential threats from disguised weapons, parcel bombs and other dangerous materials.

7. United Nations Special Notice

This notice is of recent vintage and has been especially designed and issued by the IPSG at the request of the United Nations Security Council as a follow up of Resolution 1267 of the United Nations. It is meant to warn police, public entities and other international organizations about potential threats from disguised weapons, parcel bombs and other dangerous materials. Such notices have been issued against Osama Bin Laden, Ayman Al Zawahiri, Dawood Ibrahim and others.

546.12. Look out Circulars (LOCs)

Broadly speaking, LOC is the methodology to be adopted by an investigative agency/officer to disseminate information to all the authorized entry/exit points in the country about an individual who is to be located, tracked or apprehended. Look Out Circulars are issued by the Bureau of Immigration (BoI) of Government of India which works under the administrative control of the Ministry of Home Affairs (MHA). An LOC can be issued by the BoI at the request of an officer not below the rank of Deputy Secretary to the Government of India. An officer of the rank of Superintendent of Police is competent to make such a request. Format for making a request for issuance of an LoC is available in Internet. It is advised that the requesting authority/officer provides maximum number of identifiers to enable the immigration officer to correctly identify the fugitive. The following identifiers should normally be made available:

i. Name
ii. Father's Name
iii. date of Birth
iv. Passport Number with Date of Birth
v. Details of Warrant/reasons for which the LoC is requested
vi. Contact information of officer who is to be informed on detention/ detection of subject. This should normally contain phone number, official, mobile and residential, postal address etc.

On issuance of an LoC in respect of any subject the same is circulated by BoI to all its immigration check posts at all international airports and land and sea check posts. When the subject of an LoC is detected

at any of the check posts of the BoI, immediate intimation is given to the requesting agency/officer on the phone numbers provided with the contact information. Simultaneously intimation regarding detection of the subject is also given to the Police Station having jurisdiction and the subject is temporarily detained awaiting further directions from the requesting authority. It is highlighted here that this detention is purely temporary and competent officer of the requesting agency should be available to provide further guidelines to the immigration officer. It is worthwhile to mention here that, as a matter of routine, the Interpol Wing of CBI forwards copies of all RCNs to the BoI for issuance of LoCs against the fugitives and it is this mechanism which is useful in locating fugitives on arrival at immigration check posts. A competent officer may also request for issuance of an LoC of subjects who may not be required for apprehension but simply whose movements are required to be tracked e.g. in cases of subjects of Green Corner/Yellow Corner/Blue Corner Notices. It is highlighted here that an LoC is initially valid for 1 year only and is required to revalidated at the request of the relevant investigating agency/officer.

546.13. Extradition and Deportation : {applicable if MLAT is signed by both the requesting (India) and the requested (respective foreign) country.}

Extradition is the procedure by which one fugitive or absconder is surrendered by a state or a nation to another. It is very much a part of modern criminal justice system of most of the countries. Extradition is normally between two nations which are called the Requesting State and Requested State respectively with the Requesting State being the nation/state which intends to secure the presence of a fugitive who is located/apprehended in the Requested State. Such a fugitive must be wanted to face prosecution in the requesting state or to go undergo sentence after conviction by a criminal court of the requesting state; Extradition is normally not possible in case where the fugitive is required for investigative purposes and has not been charged by a criminal court or, in the Indian context, if a charge sheet has not been filed against him/her in a criminal court unless a specific mention to that effect is made in the Extradition Treaty.

Each country / State has designated nodal ministry/department to handle and process cases of extradition. Such a nodal authority is normally referred to as the Competent Authority. India has designated the Ministry of External Affairs (MEA), Government of India as the Competent Authority. Extradition requests may be submitted to MEA at the following address for further processing by the Competent Authority:

Joint Secretary,

CPV Division, Patiala House,
Ministry of External Affairs,
Govt. of India, Tilak Marg,
New Delhi - 110001 (Ph : 011-2338 6259)
(CPV - Consular, Passport & Visa Division)

Extradition is a sovereign function of the nations/authorities involved and is generally governed by the following guiding principles :

a. ***Principles of Reciprocity*** – extradition is normally governed by extradition treaty or similar legal arrangements between requesting / host country.

b. ***Principle of dual criminality.*** The offence for which the fugitive faces charges in India should also be a punishable offence in the MLAT country.

Some of the countries in the world have signed Mutual Legal Assistance Treaties (MLATs) to establish cross border co-operation. MLATs are considered very important tools for law enforcement agencies, governments and the private sector, since they act as formal mechanisms for access to data which falls under different jurisdictions. This is particularly useful in the War on Terror era, since governments and law enforcement agencies can potentially gain access to data which is necessary for an investigation, but which resides beyond the borders of their country.

MLATs can potentially be useful in aiding law enforcement agencies in tackling crime and terrorism, especially since they allow for access to and sharing of data with any country that is a party to the agreement.

546.14. India currently has MLATs with the following thirty-five countries :

1. Kingdom of Bahrain
2. Republic of Belarus
3. Canada
4. French Republic
5. Republic of Kazakstan
6. The State of Kuwait
7. Republic of Korea
8. Republic of Mauritius

9. Republic of Mongolia
10. Russian Federation
11. Republic of Singapore
12. Republic of South Africa
13. Kingdom of Spain
14. Confederation of Switzerland
15. Republic of Tajikistan
16. Kingdom of Thailand
17. United Kingdom of Great Britain and Northern Ireland
18. United Arab Emirates
19. The United States of America
20. Republic of Ukraine
21. Republic of Uzbekistan
22. Bulgaria
23. Vietnam
24. Egypt
25. Mexico
26. Iran
27. Bosnia & Herzegovina
28. Sri lanka
29. Australia
30. Bangladesh
31. Malaysia
32. Indonesia
33. Myanmar
34. Hong kong
35. Republic of Turkey

546.15. Based on guidelines and notifications published on the Interpol, New Delhi website the following process for sharing/collecting information across borders is clear:

1. An investigating officer who is seeking information outside of India must seek an order from a Criminal Court in India. The Court order may then be shared with the relevant authorities in the relevant country.
2. Investigating officers outside of India seeking information from within India must send such requests to the Central Government. The Government will then, as it sees fit, forward the request to the Chief Metropolitan Magistrate or Chief Judicial Magistrate for summoning the person or document or send the letter to any police officer for further investigation.
3. An Investigation Agency in India may obtain informal information/ material/leads collected through Interpol or diplomatic channels. Intelligence sharing, however, is required to be done by designated intelligence agencies.
4. The International Police Co-operation Cell of CBI, New Delhi is the designated agency for routing requests for informal enquiries to be made with National Central Bureau of other countries, Interpol Headquarters as well as our Missions abroad.
5. Requests directed at the CBI must include the following :
   i. The FIR number along with names of the accused and sections of law under which case has been registered.
   ii. The gist of the allegations in the FIR/ Preliminary Enquiry or any other Investigation Process.
   iii. The detail of information required. In order to facilitate requested country/ its NCB providing information the specific relevant details must be furnished.
6. No request for issue of Letters Rogatory (Letter of Request) shall be brought before any Court by an Investigation Agency without prior concurrence of the Central Authority i.e. the Ministry of Home Affairs (MHA).
7. All incoming LR will be received by Under Secretary (Legal), Internal Security Division, Ministry of Home Affairs.

   As such, India can potentially share intelligence data and/or have access to intelligence data within any of these thirty-five countries. MLATs between countries allow for potential intelligence sharing and India can potentially share intelligence data with countries it has MLATs with, and *vice versa*. Furthermore, these MLATs allow India to gain access to data stored on the cloud and to data stored by multinational service providers, as long as such data falls within the jurisdiction of a country India has a MLAT with. This can potentially be particularly useful in aiding law enforcement agencies with their investigations.

   Deportation : The investigating Officer has to get the passport details of Indian fugitive citizens who is abroad get his passport impounded u/s 10 (3) passport Act and write to the CBI Interpol for

deportation. The Investigating Officer has to pursue with the requested country Home Department for issuing deportation orders and liaise with that countries police agencies for deportation.

546.16.

Countries having extradition treaties with India

Countries having MLAT with India	Countries having Extradition treaties with India
Australia (2011)	Australia (2011)
Bahrain (2005)	Bahrain (2005)
Bangladesh (2013)	Bangladesh (2013)
Belarus (2008)	Belarus (2008)
Belgium (1958)	Belgium (1958)
	Bhutan (1997)
Bulgaria (2006)	Bulgaria (2006)
Canada (1987)	Canada (1987)
	Egypt (2012)
	France (2005)
	Germany (2004)
Hong Kong (1997)	Hong Kong (1997)
Korea (ROK) (2004)	Korea (ROK) (2004)
Kuwait (2007)	Kuwait (2007)
Malaysia (2011)	Malaysia (2011)
Mauritius (2008)	Mauritius (2008)
Mexico (2009)	Mexico (2009)
Mongolia (2004)	Mongolia (2004)
	Nepal (Old Treaty) (1963)
	Netherlands (1989)
	Oman (2005)
	Poland (2005)
	Portugal (2008)
Russia (2000)	Russia (2000)
	Saudi Arabia (2012)
South Africa (2005)	South Africa (2005)
Spain (2003)	Spain (2003)
Switzerland (1996)	Switzerland (1996)
Tajikistan (2009)	Tajikistan (2009)
Tunisia (2004)	Tunisia (2004)

Turkey (2003)	Turkey (2003)
Ukraine (2006)	Ukraine (2006)
UAE (2000)	UAE (2000)
United Kingdom (1993)	United Kingdom (1993)
USA (1999)	USA (1999)
Uzbekistan (2002)	Uzbekistan (2002)
Vietnam (2013)	Vietnam (2013)
	Crotia (2011)
	Fiji (1979)
	Italy (2003)
	Papua New Guinea (1978)
	Peru (2011)
Singapore (1972)	Singapore (1972)
Sri Lanka (1978)	Sri Lanka (1978)
	Sweden (1963)
	Tanzania (1966)
	Thailand (1982)

546.17. FAQs ON LOOK OUT CIRCULARS (LOC)

The Look Out Circulars are opened to trace the absconding criminals/ offenders/fugitives and also to prevent and monitor effectively the entry or exit of such person who may be required by law enforcement authorities to face trial in court of Law.

1) Look Out Circulars are issued by Jt. Director, I.B., MHA, Block No. 8, R.K. Puram, New Delhi for those who are wanted by Law.

2) When do we initiate LOC ?

Ans:- When we want an accused not to leave the Country or to get him/ her when he/she returns from abroad.

3) Who is the nodal agency ?

Ans:- ADGP, CID is Nodal Agency for issuance of LOC in normal course. SsP/CsP/SsRP send proposals to ADGP, CID

4) Can SDPO write to Chief Immigration Officers (Chief I.Os) of International Air ports for detaining a person wanted in a warrant case.

Ans:- Yes. In emergencies where victim's parent etc. inform urgency. SDPO can give Fax message directly to Chief I.Os.

5) Is there a proforma for issuance of Look Out Circulars ?

Ans:- Yes, SDPO/IO not below Inspector rank is required to fill up the proforma including the passport No. date of issue, DOB. (DIG CI Cell of intelligence Department has access to requisitioned data)

6) Whether such people against whom LOC is issued are stopped in international Air Ports ?

Ans:- Yes, at immigration counter. When passport is checked by immigration Officer Embarkation card is logged. Immediately on stopping such person they inform concerned initiating Authority/Police Agency.

7) How many International Airports, Sea Ports and Land Check Posts are in India ?

Ans:- I.B. /Chief Immigration Officer or Local Special Branch. I.B mans 18 International Airports + 3 Rail Check Posts + a few Land Check posts in Pakistan, Wagha/ R.S. Pura Borders.

8) Who takes care of Immigration in important Airports? Who supervises them ?

Ans:- I.B / Chief Immigration Officer or Local Special Branch.

I.B mans 18 international Airports + 3 Rail Checks Posts + a few Land Check Posts in Pakistan, Wagha / R.S Pura Borders.

9) Can LOC be withdrawn by the Initiating Officer in case of Court orders/ surrender of accused/arrest of accused elsewhere ?

Ans:- Yes.

546.18. FAQs ON RED CORNER NOTICE (RCN)

Principles :-

1. Principles of Dual Criminality. (PDC)
2. Principles of reciprocity. (PRC)
3. Mutual Legal Assistance Treaty (MLAT)
4. Memorandum of Understanding (MOU)

1) Who initiates Red Corner notice?

Ans:- SDPO/ SP of a unit sends RCN proposal to ADGP, CID, who is the Nodal Officer. ADG CID sends to CBI Interpol, New Delhi for urgent processing.

2) Who issues RCN and through which agency? How many countries are in the loop?

Ans:- Interpol France through which Interpol (NCB- National Central Bureau), New Delhi, issues RCN. 188 Countries are in the loop.

3) What is the time taken for issuance of RCN ? Is there any proforma?

Ans:- Roughly 15 to 45 days. Yes. The RCN proposals to be sent in a proforma to ADGP, CID.

4) What are the requirements?

Ans:- (i) Involvement of an accused in a warrant – case- Fugitive status.

(ii) Obtain undated/ open-dated NBW from Court.

(iii) Fill up proforma with passport particulars.\

5) Are the names of RCN accused hosted in CBI website once issued?

Ans:- Yes, (cbi.nic.in)

6) Purpose :

Ans:- Interpol does not treat RCN as an arrest warrant. But keeps a watch on the movements of such persons. Informs initiating country of his travel out of their country.

7) Then what is the use?

Ans:- (i) He/She will not be able to do a job in a corporate. Doors are shut for them.

(ii) Being in the CBI wanted list in internet they face ignominy among friends & relatives.

8) When such person visits initiating country (India) will he be detained at the Airport/Sea port etc.?

Ans:- Yes. He / She will be detained. Concerned initiating officers will be informed of the detention.

9) Can a RCN be withdrawn?

Ans:- Yes. By Court order/ By initiating agency / s*uo motu* by Interpol.

10) Is RCN issued in Sec. 498. A IPC / Dowry Prohibition Act cases?

Ans:- No. Since May, 2009 Interpol stopped issuance of RCN as they don't fall under principle of dual criminality.

11) Why?

Ans:- Since 'Dual Criminality Principles' is not applicable w.r.t. Sec. 498.A IPC, 3, 4 & 6 DP Act, such offences are not considered for issuance of RCN.

166A Cr.PC : Letter of request to competent authority outside India for investigation to record evidence and secure any document in possession of such cities. The Investigating Officer has to send the letter rogatory to CBI Interpol i.e the nodal agency for obtaining the evidence.

166 B Cr.PC : Letter of request from a country of place outside India to a Counsel or an authority for investigation in India is received by SsP/ CsP through CBI. The Concerned unit officer will have to record the evidence and seize / procure such document and send the execution report to the CBI Interpol or to the Court as the case be.

546.19. Sec 166 A Cr.PC Letter Rogatory for investigation abroad.

Investigating officer for securing oral/documentary/material evidence from abroad makes an application to the jurisdictional court duly enclosing F.I.R, oral/documentary/material (O.D.M) evidence gathered in that case so far to write to the concerned jurisdictional court of requested country (i) to examine orally any person acquainted with the fact and circumstances of the case, (ii) to record such witness statement, (iii) to require such witness to produce any document or thing, which may be in his possession and (iv) to forward all the O.D.M evidence to the Indian court issuing such letters.

The letter will be sent by the court to the CBI Interpol which is the competent authority. Such evidence is accepted by Court.

Thus, letter rogatory is a formal communication in writing by a Court in which an action is pending to a foreign court or Judge requesting the testimony of a witness residing within the jurisdiction of that foreign Court may be formally taken there on under its direction and transmitted to the issuing court making such request for use in the pending legal context or action.

546.20. Sec 166 B Cr.PC

Letter of request from a country or a place outside India to a Court or an authority for investigation in India. CBI, Interpol is the competent authority through which all communication has to be made. The letter rogatory execution report has to be sent to the CBI Interpol for further follow up action.

546.21. Procedure for the offences committed outside India :

Sec 188 Cr.PC mandates investigation of an offence committed by a citizen of India, whether on high seas or elsewhere in a foreign country or by a person, not being an Indian citizen, who commits an offence on any ship or aircraft registered in India. Such offence is deemed to be an offence committed within India.

Though the I.O may register a criminal case and investigate the same. But he should write to Jt. Secretary, M.H.A, Foreigners Division, North Block, New Delhi (011-22560198) for according sanction to prosecute such accused persons. I.O should enclose FIR, oral,

documentary, electronic evidence duly certified by the jurisdictional court with a draft charge sheet for issuance of prosecution orders.

The principle underlying in Sec 188 Cr.PC is to dispel any objection or plea of want of jurisdiction at the behest of a fugitive who has committed an offence in any other country. If such a person is found anywhere in India, the offence can be inquired into and tried by any Court that may be approached by the victim.

The victim who has suffered at the hands of the accused on a foreign land can complain about the offence to court. The convenience of the victim and not that of accused is the criterion. (*Ref : Ords. Hemrajani Vs State of UP 2005 Cr.P.L.J 665 9668), (2005) 1 SCC 617*)

Example 1 : Tamilnadu Police apprehended one of the co-accused who along with others committed a murder in Kuwait, has the authority to register a crime committed on a foreign soil. (Ref S.Calara (Mrs) Vs State of Tamilnadu 2008, Cr.L.J.2477 (Madras)

Example 2 : Indian citizens (carriers) who were entrusted with certain property in India committed the offence in Portuguese territory, they were found in India. Police have authority to register and investigate.

The word "inquiry" used in proviso in Sec 188 Cr.PC is confined to proceedings before the Magistrate prior to trial alone, but cannot extend to 'investigation' by the Police. The bar, if any will operate to inquiry before the Magistrate after the Police laid the charge sheet for the offence.

(Ref : Vijaya Saradhi Vajja Vs Devi Sriroopa Madapati, 2007 Crl.L.J 2007 636 (640), 2007 (4) crimes 74 (AP)

The consent of central Government may be obtained before the trial begins, it is not necessary that the consent should be obtained before taking cognizance.

(*Ref : Ajay Agarwal Vs Union of India, AIR 1993 SC 1637 1993 Cr.L.J 2516*)

CHAPTER - 31

Scientific Aids to Investigation

(u/s 45 Indian Evidence Act., the Expert Evidence is relevant)

547-1. Analysis of Scientific Aids to Investigation

Of all the functions of the police, investigation is the most important and vital one. In the constantly evolving socio-economic scenario the criminals using sophisticated tools and techniques commit more and more crimes. In order to overcome these complexities the police all over the world are depending more and more on scientific methods of investigation. A wide range of scientific techniques are now available for analysis of varied nature of objects and materials encountered in the process of commission of crime by the culprit in and around the crime scene, on the suspect and victim. The study of such material evidence also known as objective evidence or physical evidence applying latest scientific tools and techniques for proving the guilt or innocence of the accused by the courts of law is broadly known as Forensic Science.

2. The applications/ aid of science to the crime investigation is fundamentally one of reconstruction, that is, trying to assist in determining what happened, where it happened, when it happened, and who was involved. It is not concerned with, and cannot determine, why something happened. Forensic analysis is performed on evidence to assist the police and the court in establishing physical facts so that criminal or civil disputes can be resolved. It is the job of the forensic scientist to translate the legal inquiry into appropriate scientific questions, and to advice the Investigating Officer and / or the judiciary on the capabilities, limitations and results of the analytical techniques.

3. In forensic science, the laws of various facets of science are applied in conducting an analysis to determine the nature and characteristics of Physical Evidence collected in the process of crime or civil investigation. Using the scientific methods, inferences are drawn about how the evidence can be linked to crime and criminal. These inferences are thus connected to the events that may or may not have taken place in connection with said evidence. The law defines elements of a crime; science contributes information to assist in determining whether an element is present or absent.

4. It is an established fact that the criminals while committing crimes either due to carelessness or due to anxiety, or due to contact with other objects leave traces at the scenes and these are the basis for scientifically exploiting their culpability. This physical evidence when

located, collected, preserved and forwarded for scientific evaluation and report is bound to have enormous potential in linking the criminal to the crime scene, victim or any other circumstances leading to the crime. Moreover, evidence collected and based on scientific evolution and report is unbiased, universally acceptable and also stands the test of time.

Time limit for sending physical evidence to APFSL for scientific analysis

5. The investigating officers should collect and forward all types of physical evidence along with controlled samples so as to reach the FSL within 30 days from the date of crime. Physical evidence sent after 30 days will not be accepted by FSL except in rare cases that too along with a D.O. letter from the concerned SP/DCP addressed to the Director explaining the reasons for the delay beyond 30 days.

6. The success of the scientific effort in arriving at truth depends both on the role of I.O. and the Forensic Scientists i.e. in the thorough search and collection of evidence in proper way by the I.O., and the careful analysis through the right tools and techniques by the scientists.

Institutions Providing Scientific Investigative Aids to the Investigating Officers

I. **Forensic Science Laboratory**

548-1. The Government of Andhra Pradesh established a full-fledged Forensic Science Laboratory in the year 1974. The Laboratory is headed by a Director who reports to the Director General of Police, Andhra Pradesh. Four Joint Directors who are in-charge of biological, chemical, physical and general divisions support the Director. Under each division there are different sections and in all there are 13 sections, each headed by an Assistant Director with supporting scientific staff in the cadre of Scientific Officers, Scientific Assistants, Lab Assistants, Lab Technicians and Lab Attendants. The 13 sections functioning in FSL are Ballistics, Biology, Biomedical, Chemistry, Computer Forensics, DNA, Documents, Forensic Engineering, Narcotics, Physics, Polygraph, Serology and Toxicology. The detailed functions of each section are given in Orders 557 to 570. The organisational structure of APFSL is given in detail in Order 555.

A. There are three Regional Forensic Science Laboratories established in 1994 and such regional/district laboratories will be available in each range/district in near future. The regional laboratories, headed by Assistant Directors with necessary supporting scientific and ministerial staff, under take examination of only certain categories of evidence. These laboratories work under the administrative control of Director,

APFSL. The details of their functions and the organisational structure are given in Order 556.

B. The Mobile investigation units known as "CLUES" teams are available in major cities, district head quarters and city zones for processing the crime scene evidence and reconstruction of crime scene and for providing assistance to the investigating officers in investigation. The Scientific Officer or Scientific Assistant will be in-charge of these teams. Lab Technician/Photographer borne on the strength of FSL and Fingerprint expert borne on the strength of the Fingerprint Bureau/ SCRB will assist him. These three members together constitute the CLUES team, which visits the scenes of crime whenever their services are requisitioned. The CLUES teams are under administration control of Director FSL, but their operational and functional control lies with concerned SP/CP. The nature of services rendered by the clues teams is given in Order 554.

There are other institutions as listed below, which will help the police in scientific investigation of crime.

II. Professors of Forensic Medicine : Medico-legal services

2. The Professors of Forensic Medicine working in Six Medical Colleges listed here are responsible for providing Medico-legal services to the investigating officers in the respective districts indicated against each.

Sl. No.	Professor of Forensic Medicine	Jurisdiction
1.	Guntur Medical College, Guntur	Guntur & Prakasam
2	Siddartha Medical College, Vijayawada	Khammam & Krishna
3	Ranga Raya Medical College, Kakinada	West Godavari & East Godavari
4	Andhra Medical College, Visakhapatnam	Visakhapatnam, Vizianagaram & Srikakulam.
5	Kurnool Medical College, Kurnool	Kurnool, Cuddapah & Ananthapuram
6	S.V. Medical College, Tirupathi	Chittoor & Nellore

The services rendered by a medico-legal expert extend to both the living and the dead individuals. 'Clinical Forensic Medicine' deals with the medico-legal examination of the livings pertaining to wounds, sexual offences, age determination, poisoning whereas the 'Forensic Pathology' deals with that of the dead like autopsies, examination of mutilated/fragmentary and skeletal remains, exhumation etc. as given below.

A. **Clinical Forensic Medicine** : Wounds cases are examined to decide the type (e.g., abrasion), age and nature (simple/grievous) of the wound

as well as the type of the weapon (blunt/sharp) responsible for the same. In sexual offence cases, both the accused and the victim are examined for signs of recent sexual intercourse. Further, the accused in particular is examined for potency and the victim for determination of her age, if required. Age determination is also conducted in cases such as kidnapping, juvenile crime and disputed age claims.

B. **Forensic Pathology :** Dead bodies (whether fresh, decomposed or exhumed and whether intact or fragmented and mutilated) as well as skeletal remains can be examined for establishing the cause and time since death and for possible clues to establish the identity of unidentified bodies. Injuries, poisoning or asphyxia commonly causes unnatural or violent deaths while disease processes cause natural or sudden deaths. A host of physical characteristics and traits help in identification of the body while the onset and progress of the post-mortem changes are of use in estimating the time that has elapsed since death.

III. **Fingerprints Bureau (State Crime Records Bureau)**

3. The Director, Fingerprints Bureau and his supporting staff at the head quarters and at Single Digit Finger Print Sections at district level are responsible for lifting, collecting and matching the finger prints in all criminal cases. The details of their functioning are given in Chapter 41.

IV. **Explosives / Bomb Disposal Experts**

4. In all matters relating to explosive substances the following agencies have to be contacted by the Investigating officers in handling, investigating, diffusion and disposal of explosive substances.

A. Deputy Chief Controller of Explosives, Government of India, Kendriya Sadan, Sultan Bazar, Hyderabad-500 195. He shall be contacted in all the matters relating to civil explosives dealt in detail in Order 571.

B. Sub-Area Commander, Military Bomb Explosion Squad, AOC Center, Secunderabad : He should be contacted in dealing with all cases involving military explosives, the details of which are given in Order 571.

C. Bomb Disposal Squad, C/o Addl. Director General of Police, CID. This squad should be contacted in all matters relating to diffusion of explosives, collection of remnants from the defused, seized or recovered live explosives and explosion residues. A detailed account on explosives as to how they should be handled, defused, disposed etc., are given in Order 571.

V. **Institute of Preventive Medicine :**

5. Director, Institute of Preventive Medicine, Narayanguda, Hyderabad -500 029; He should be consulted in all matters relating to investigation of cases arising due to epidemic diseases, dog bites, water borne diseases etc.

VI. **Chemical Examiner - Prohibition & Excise**

6. Government Chemical Examiner, Prohibition and Excise Department, Regional Prohibition Excise Lab, Narayanguda, Hyderabad - 500 029 and five other regional labs situated in Kurnool, Chittoor, Guntur, Kakinada and Visakhapatnam, should be consulted in all the cases of suspected adulterated Toddy, illicit distilled liquor, or any spurious liquor, non-duty paid liquor, any Indian liquor sold un-authorisedly. However, if death occurs due to the consumption of spurious liquor/Toddy, the remnants of consumed Liquor/Toddy should be sent to A.P. Forensic Science Laboratory along with viscera. Similarly all substances recovered under NDPS Act should be sent to A.P. Forensic Science Laboratory.

VII. **Government Food Laboratories**

7. Director, Government Food Laboratories, Nacharam, Hyderabad - 500076, should be consulted in all cases relating to adulterated food items such as milk, milk products; food items sold in hotels, restaurants, fast food shops, sweet shops etc.; edible oils, pulses and grains, honey etc.

VIII **Government Drug Control Laboratories**

8. Inspector General, Drugs & Copy right, Drugs Control Administration, Vengalarao Nagar, Hyderabad - 500 038 or any of their regional units have to be consulted in cases relating to manufacturing and sale of spurious / substandard quality drugs and other cases relating to violations under Drugs Price Control Order 1995 and Drugs and Magic Remedies (Objectionable Advertisements) Act-1954.

Physical Evidence and its role in Crime Investigation

549.1 The word Physical Evidence denotes all evidence having certain physical dimensions such as size, shape, pattern, length, width, height, volume etc., which can be preserved, lifted, collected, packed and forwarded for scientific analysis to the specialist concerned. Physical evidence can alternatively be called as material evidence, objective evidence, circumstantial evidence or indirect evidence in different contexts. Physical Evidence includes all naturally occurring substances as well as machine/men made objects in the Universe.

Purpose of Physical Evidence in Crime Investigation

2. The goal of physical evidence examination is to provide useful information for crime investigators in solving crimes and for courts of law during the adjudication of these cases. The following leads can be obtained from the examination of physical evidence in the process of investigation.

A. Information on the corpus delicti : The corpus delicti (literally means the "body of the crime") refers to those essential facts which show that a crime has taken place. For example, tool marks, broken doors or windows, ransacked rooms, and missing valuables would be important in establishing that a burglary has taken place. Similarly, in an assault case, the victim's blood, a weapon, or torn clothing could be important pieces of physical evidence.

B. Information on the *modus operandi* (MO) : Many criminals have a particular modus operandi or (MO), which is their characteristic way of committing a crime. Physical evidence can help in establishing an MO. In burglary cases, for example, the point of entry, the means used to gain entry, tools that were used and articles stolen may all establish an identifiable method of operation. In arson cases, the types of accelerant used and the way the fires were set constitute physical evidence that helps to establish the "signature" of an arsonist. Similarly the type of explosive remnants, triggering devices, timing devices, containers and composition of explosive substances used in the making of Bombs and IED's establish the commonness of source/origin of Improvised Explosive Devices (IED's) in serial blast cases. Analysis of physical evidence is one important way of linking cases in the investigation of a "serial" killer or rapist.

C. Linking a suspect with a victim : This linkage is one of the most common and important aspects that physical evidence can help to establish. Blood, hairs, clothing fibers, cosmetics and other items from the victim may be transferred to a perpetrator. Items found in a suspect's possession can sometimes be linked to a victim, for example through the comparison of bullets with a weapon seized from the suspect, the suspect can be linked with the crime. It is also possible that evidence is transferred from a perpetrator to a victim; in rape, murder and assault cases.

D. Linking a person to a crime scene : This type of link is also one of the most vital in a crime scene investigation. Numerous types of evidence may be deposited by the person committing a crime, including fingerprints, foot prints, blood, hair, fibers, and soil. In addition, the type of weapons or objects used may also leave evidence, for example, bullets and cartridge cases or tool marks. Depending on the type of

crime, various kinds of evidence from the scene may be carried away intentionally, as a stolen property and unintentionally as a transfer of trace evidence such as carpet fibers or hairs on the criminal's shoes or clothing. These materials are extremely useful in linking an individual to a particular crime scene.

E. Disproving or supporting a witness' testimony: Physical evidence analysis can often indicate conclusively whether a person's version of a set of events is credible, or whether an alibi put forth is convincing or not. For example, the examination of a car, which fits the description of a hit and run vehicle, might reveal blood on the underside of the bumper. If the owner of the vehicle claims he hit a dog, laboratory tests on the blood can reveal whether the blood is from a dog or from a human and further testing for DNA Profiling may reveal the truth relating to the accident and victim.

F. Identification of a suspect: The best evidence for identifying a suspect is his or her palm prints and evidence such as blood, semen, saliva, skin tissues etc. collected for DNA Finger Printing examination. A fingerprint found at a scene, and later identified as belonging to a particular person, results in an unequivocal identification of that person as having been at the scene. The term identification when applied to people really means "individualization" (identifying a single unique source).

G. Providing investigative leads: Physical evidence analysis can assist the investigator in pursuing a productive path, by providing clues from the characteristics of the physical evidence. In a hit-and-run case, for example, examination of a chip of paint found in the victim's clothing could be used to provide information on the colour and possibly the model and year, of the automobile involved. With the rapid emergence of computerized fingerprint and DNA data-bases, the ability of physical evidence to provide investigative leads has increased enormously.

H. Identification of a substance: The results of examining a piece of physical evidence can provide information on the identity of a particular substance. As indicated above, this is a classification process. In its simplest form, such as in the identification of cocaine, heroin, LSD, morphine or any other type of drug, it meets the legal requirement for classification as a controlled substance. Laboratory analysis of fibers can sometimes yield information on the manufacturer of the fabric or garment. Simple identification of many types of physical evidence can provide critical information for use in the investigation or prosecution of a case.

I. **Crime Scene Reconstruction:** Transient evidence such as odour, temperature (of car engine, fire debris etc), imprints, marks/stains; pattern evidence like blood stain patterns, skid mark patterns, gunshot residue patterns, projectile trajectory patterns, glass fracture patterns etc., and conditional evidence such as light, smoke, fire, water, piled up news papers etc., will play a key role in reconstruction of the events surrounding the crime scene and the nature of offence. Sometimes it may also give valuable leads regarding the perpetrator based on the individual traits in relation to the evidentiary pattern.

Sources of Physical Evidence

3. The primary source of physical evidence is generally the crime scene but it is by no means the only source. Many crimes occur over multiple scenes and many criminals carry physical evidence away from the actual scene in addition to leaving evidence behind. The victim, suspect and sometimes the witnesses are major sources of physical evidence. The methodology of search depends on the case and the scene. The purpose of the search is to look for clues and for evidence of what happened during the crime. It is not a random groping in dark but rather a direct search for objects and materials. Recognizing, recording, collecting, marking, packaging and preserving evidence discovered while searching a crime scene is the basic essential duty of the investigating officer. In cases where the evidence is of a common nature, i.e., evidence, which is not hidden and is easily collectable, without expert's assistance, the Investigating Officer should invariably collect all possible forms of physical evidence. For other kinds of evidence the investigator should take the assistance of CLUES Team or medico-legal experts. Some types of physical evidence, which are hidden, latent or fragile, require scientific procedures for location as well as collection and packing. In such circumstances the involvement of CLUES team from the initial stages of inspection is essential. The details of services of CLUES Team experts are given in Order 554.

Known Standards/controls

4. The examination of evidence, whether soil, blood, glass, hair, fibers etc., often require comparison with a known standard or control. Such material may be obtained from a victim, suspect, crime scene, or other sources.For instance, investigation of a hit and run accident necessitates the collection of control paint from the suspect vehicle to enable comparison with the paint recovered from the scene. Similarly hair found at a crime scene will be of value only when compared with control hair collected from the suspect or the victim.

Likewise, bloodstains collected at the scene of crime can only be useful when control samples are collected from all possible suspects/ victims involved in the offence. The quality and quantity of control samples often determine the evidential value of crime scene evidence. The control specimens must therefore, be collected and treated with equal care and caution as that of crime specimens. In the collection of standards too, due care should be taken for proper recognition, legal possession, marking for identity, preservation of the integrity of the sample, and accuracy in reporting acquisition, besides chain of custody.

Chain of custody of physical evidence

5. Continuity of possession or the chain of custody of evidence is an important aspect whenever evidence is collected until it is presented in the court as an exhibit. This subject is discussed in detail in Order 426 in Chapter 22.

Significance of physical evidence

6. The major purpose of examination of physical evidence by a forensic scientist is to identify or absolutely determine the nature of the material or to compare two substances in order to know whether they possess the same characteristics and composition, with a view to establish their commonness of origin.

A. **Identification** : The absolute determination of the biological, physical or chemical nature of a substance is the purpose of identification. This information helps the police officer to secure leads for further investigation or confirm his hypothesis or draw certain inferences and conclusions based on other circumstantial evidences, e.g.

i. Identification of specific poison in the viscera of a person who died under suspicious circumstances.

ii. Identification of an inflammable material in the burnt clothing of young woman in a dowry death case.

iii. Identification of a reddish stain to be blood in a case where the suspect claims it to be a vegetable stain or a synthetic dye.

iv. Absolute determination of a white powder to be cocaine in case of illicit drug trafficking.

B. **Comparison :** The comparison of two or more substances, usually crime and control specimens, is generally undertaken to establish commonness of origin (source) of the materials involved. For example, the forensic scientist may assist in placing a suspect at a particular location by matching similarities in the hair found at the crime scene

to the hair collected from the suspect. Similarly, comparison of a paint chip found on a road accident victim's clothing with the paint removed from a suspected vehicle might prove its involvement in the accident. Comparing chance fingerprints at the crime scene with the fingerprints of the suspected persons may establish their association with the crime.

C. **Individual Characteristics** : Evidence that can be traced to a common source with an extremely high degree of probability is said to possess individual characteristics. Examples of this type are the matching ridge characteristics of the fingerprints, the comparison of random striation marks on bullets, tool marks, irregular and random tread patterns in tyre or footwear impressions and handwriting for authorship determination

D. **Class characteristics** : Evidence is said to possess class or group characteristics when it can only be traced to a group and not to a single source. Here, probability is a determining factor. Class characteristics help provide leads and corroborate evidence. For example, where the typewriting in an anonymous letter is to be compared, the typewriter impressions are initially compared for the type of letter, spacing and other general characteristics to determine the probable brand of typewriter, viz, Godrej, Facit, Remington, etc. If they differ in the general characteristics it, further comparison will not be of any use. On the other hand if they are found to have group characteristics of a specific brand of typewriter, then further examination with typewriters of that class will be undertaken to identify the acquired characteristics of typewriters like wear marks, defects, alignments, etc., and to match such individual characteristics. If any individual characteristics found in the questioned typewriting are present in the standard typewriting, then it would be possible to conclude that both have been typed using the same typewriter. Similarly determination of the direction of twist, the number of lands and grooves on fired bullets for group or class characterization and further individual characterization can be done by matching the striation marks on the crime bullet with the test bullet fired from the suspect weapon.

Limitations of Physical Evidence

7. The Forensic Scientist will be able to give scientific opinion definitely only when the necessary details are furnished to him in the prescribed manner enabling a clear analysis.

Authorities competent to forward physical evidence to Forensic Science Laboratory

8 **A Judiciary**

i. Judicial officers of the courts in Andhra Pradesh

ii. Judicial officers of the courts in other states in exceptional cases.

iii. Special officers of judicial commissions, inquiries and other state government officers holding judicial, quasi-judicial functions like A.P. Administrative Tribunal, A.P. Industrial Tribunal etc.

B. Police

i. Officers of the state police departments of the rank of Sub Divisional Police officer and above.

ii. Officers of other States and Central Government Police Establishments in exceptional cases.

C. Revenue

Revenue officers of A.P., State Government discharging ex-officio functions of magistrates such as Collector and District Magistrate, RDO and Sub-Divisional Magistrate. Tahasildar and Executive Magistrate.

D. Government Departments

Officers-in-charge of State Government departments and other District headquarters holding the rank of Dy. Superintendent of Police or above. This includes officers of the above rank and in- charge of Co-operative Societies and other Government bodies and Government undertakings. In exceptional cases, Central Government cases and cases from other State Governments will also be accepted.

E. Medical officers of the rank of Asst. Professors and above of the AP Medical and Health Department.

F. Other Officers of

i. Banks.

ii. Financial Institutions.

iii. Industrial Organisations.

iv. Other institutions or individuals at the discretion of the Director/DGP.

Letter of advice

9. Letter of advice is an important document, which acts as a link between the Investigating Officers and Forensic Scientist and therefore, should contain all possible information to derive maximum benefit from the physical evidence collected. The brief history of the case shall contain all pertinent facts relating to the motive, opportunity and means of committing the crime. Regarding collection of evidence full information should be furnished against each item, the details of when, where and

how the evidence was collected against the column "List of articles forwarded for examination…..". The Investigating Officer should go through the nature of examination and the types of analytical information provided by the FSL authority for each class of physical evidence given in detail in Order 557 to 570 before filling the column "Exact nature of examination required". The Investigating Officer should affix the sample seal invariably on the letter of advice.

Collection of physical evidence in the following cases is mandatory

10. The Investigating Officers should collect pertinent physical evidence from all possible sources in the types of cases mentioned below and forward it to the APFSL/RFSLs for scientific analysis. The Investigating Officer should ensure that the evidence to be derived from the examination of the material is relevant to prove the guilt of the accused. In the process of collection of material evidence, they should take the assistance and guidance of Mobile Investigation Teams, (CLUES TEAMS) of their jurisdiction. Failure to collect and forward the physical evidence in these cases for analysis to FSL will entail in severe disciplinary action.

A. Murder
B. Rape
C. Arson
D. Property offences
E. Cases involving firearms
F. Cases involving explosives
G. Road/rail accidents
H. Mass disasters
I. Custodial deaths
J. Dowry deaths
K. Industrial accidents
L. Printing of counterfeit currency
M. White-collar offences involving forged documents
N. Environmental crime
O. Other sensational and grave crimes
P. Crimes against wild animals

List of documents to be sent along with physical evidence

11. Depending upon the nature of physical evidence forwarded, the following documents should be sent along with the covering letter.

A. Forwarding letter/authorisation letter of competent authorities. (Order 549-8)

B. Letter of advice from Investigating Officers.

C. Doctor's Report (post-mortem examination) in Toxicology cases, Medical examination Report of victim and accused (if arrested) in rape and serology cases.

D. Confession Statements of suspects/accused, statements of witnesses, etc., in Polygraph cases.

E. Inquest/Panchanama copies in Toxicology cases.

F. FIR copies where desirable.

G. Sample seal on a sheet of paper, or on forwarding letter/letter of advice.

H. Any other document relevant for examination.

Case property will be accepted by APFSL/RFSLs if the following conditions are satisfied

12 A. Physical evidence forwarded should be described in detail with information as to when and where it was found, who found and how it was processed and forwarded and tally with the description given in the letter of advice/postmortem report/ medical officer letter.

B. The Investigating Officer should indicate any special priority to be given to the case of sensational and important nature for examination and report, within one week.

C. If special handling is required, it must be indicated and specific instructions given on the packing itself, e.g., material is fragile or perishable, for safe transportation and handling in the laboratory.

D. Adequate and appropriate samples should be collected and forwarded.

E. The Police Constables or other personnel who are authorized to bring the case property should bring relevant identification cards, passports and other proofs of identity while delivering or taking back the case property.

F. Tag or mark all the articles. If the articles can be enclosed put a mark on the container or the box.

G. Bulky articles, samples in huge quantities e.g., cots, mattress, flooring stones, a drum of petrol or diesel oil, etc., or articles unconnected with the case should not be sent.

H. Label, initial and seal all envelopes and the packages without fail. The seal should be legible and intact and all knots of stitching ropes must be sealed. It must be packed to avoid breakage, loss or contamination in transit.

I. Ensure prompt delivery of all items of interest to the laboratory within one month from the date of occurrence of crime. In case of delay beyond one month the case property should be forwarded along with a DO letter from the SP/DCP giving the reasons for delay. Record all the procedures adopted for location, recording, lifting, packing and forwarding in case diaries. Wherever feasible it is advisable to bring the physical evidence in person and discuss the circumstances and history of the case so that the scientist will endeavour to bring out the right information from the scientific studies.

J. Always obtain a signed receipt whenever evidence is transferred (chain of custody) from place to place or person to person.

K. Notify the laboratory if the case is associated with any previous submission, evidence, or case.

L. Tweezers, forceps and similar tools should be used to collect and place trace and small items into containers. It is advisable to use rubber gloves to handle such physical evidence.

M. An "evidence box" such as a clean empty cartons, cardboard boxes, etc., should be utilized for transporting the evidence. An evidence box with pegboard sides allows for tying or wiring small and medium sized objects in place. A series of drilled holes and appropriately sized clamps can serve the same purpose.

N. Items of evidence that need comparative analysis for possible commonness of origin should be packed in separate containers to avoid any cross contamination. Thoroughly clean and dry all containers, wrapping paper, card board boxes before packing physical evidence. No wet or metal containers should be used.

O. Evidence in the form of documents should be first placed in transparent envelopes without folding or bending, and then placed between two pieces of rigid card board and packed in a suitable cloth lined envelope.

P. Plastic pill bottles such as used medicine containers with lids, which are unbreakable, can be easily sealed with tape. So they make excellent containers for hair, fibers and other small trace evidence. They are ideal for spent bullets, empty cartridge cases, and cartridges because they can be packed with absorbent cotton to minimize movement.

Q. Plastic envelopes and bags are suitable for packing wide variety of materials. However, in case of soil, debris or clothing impregnated with bloodstains this may result in bacterial action contaminating the blood sample, and should be avoided.

R. If the stain is on a transportable object such as a knife, crowbar, firearm or any other weapon, it is preferable to send the whole object, protecting the area of the stain or completely enclosing the object in a package (if it is small enough). If the stain is on clothing, the garments should be wrapped separately in paper, marked appropriately and packed. This is better than any other technique (such as scrapping) for forwarding a movable sample of the stain for analysis.

S. Garments and other materials such as bed-sheets, towels, tablecloths and similar evidence should be folded to a minimum size. Specific areas which contain trace evidence should be folded in such a way as to protect such areas to avoid loss of incriminating evidence by falling off, peeling off, etc.

T. It is preferable to send a soil-stained or mud-soaked object to the laboratory rather than to attempt to remove and send the soil or mud as a separate item. When such traces are picked up as individual items of evidence, it is vital that every precaution is taken to keep the evidence in separate sealed containers to avoid any accidental loss or mixing in transit.

U. Bed-sheets, carpets, woolen materials from the scene of arson may be wrapped in metal foil and sealed in airtight containers. Smaller objects, such as paper and rags or solid samples should be sealed in the container in which they were found or placed in airtight bottles or cans. This protects the fire accelerants and their residues from evaporation.

V. Pills and other non-caustic substances should be left in their original containers for transport to the laboratory. Such containers often contain useful information. The investigating officer should count the number of pills and capsules or accurately determine the bulk quantity of fluids or powders and should include such data in observation notes and letter of advice.

W. Caustic or corrosive poisons should not be transported until their safe transit is ensured by suitable means. Appropriate containers such as glass bottles with glass lids should be used for transporting substances such as acids.

X. Food and edible substances should be placed in as many separate moisture-proof bottles or containers as necessary to avoid any contamination. In case of suspected food poisoning, the packages should be marked clearly as suspected or known samples of poison.

Y. Trace evidence, such as hair, fibers, etc., should be sealed in folded paper or placed in clean, sealed envelopes.

Z. All evidence should be forwarded or received only in sealed condition. Sample seal should be affixed on covering letter/letter of advice for comparison.

Crime Scene Processing and Physical Evidence Collection

550. Protection of Evidence at the Crime Scene and its preservation

The importance of the crime scene, its protection and preservation cannot be over-emphasized. Successful investigation of a crime largely depends upon how well various clues, leads, and evidence available at the scene of crime are protected, located, recorded, processed, evaluated and interpreted. The observations and findings in an undisturbed crime scene are vital to the success of the investigation. An improperly secured and unprotected crime scene may lead to loss, destruction or contamination of various forms of evidence, especially physical evidence. Moreover evidence once overlooked cannot be retrieved at a later stage. Therefore, the scene of crime should be properly secured and protected as a first step by the investigator and all available evidence preserved in an appropriate manner thereafter. Protection of crime scene, guidelines for protection, preservation of evidence are dealt in detail in Order No. 419 in Chapter 22.

Recording the Crime Scene

551. The method of recording crime scene through videography and photography is given in detail in Order No. 420 in Chapter 22.

Searching the Crime Scene for Physical Evidence & Role of the Investigating Officer :

552. Initially the Investigating Officer should conduct an overall survey to assimilate the items, conditions, and locations that seem to have the greatest importance. At this stage the Investigating Officer should only observe carefully and record the position of each item. The detailed steps thereafter, are given in Order 422 and 423 in Chapter 22.

Principles and Laws Governing Forensic Science

Principle of Exchange :

553-1. This was the first and foremost concept that led to the systematic development of forensic science. A French scientist Prof. Edmand Locard while working in the University of Lausanne, Switzerland in 1928 proposed this theory, i.e. "When any two objects come into contact, each of them will leave its traces on to the other". The transfer of traces may be in the form of materials or impressions. Such transference may be large or small, visible or invisible, detectable readily or difficult to detect. Nevertheless, transference does occur.

It is the responsibility of the investigating officer to search, locate and collect it.

Law of Individuality

2. Every object natural or manmade, animate or inanimate has some individuality/uniqueness of its own which is not repeated in any other objects. The natural objects are; human beings, animals, plants, leaves, seeds, insects, wood, soil etc., whereas the manmade objects are; tools, guns, bullets, shoes, pens, paper, ink, pills etc. Sometimes, it would be possible to distinguish a person or an object through the acquired characteristics as indicated below :

Natural or Manmade Objects	Original Characteristics	Acquired Characteristics
Human beings	Physical features, Finger / Foot Prints, Color of eyes, Hair, Blood group etc.	Handwriting, Gait Pattern, (Shoe sole pattern), Voice Prints, Beard, Moustache, Hair style
Twins	Fingerprints, Physical features	Handwriting, Gait pattern, Hairstyle
Bullet	Caliber	Lands and grooves, Barrel impressions, Striations due to wear and tear, maintenance, storage conditions of weapon.
Cartridge Case	Case and primer	Striking pin impression
Tyres	Treads, Tread Pattern, Tread width, Rubber etc	Wear and Tear marks, Defects due to usage, Environmental marks
Knife	Length of Blade, Hard characteristics, Blade characteristics	Marks due to sharpening on stone, metal, wall scratches etc.

Law of Progressive Change :

3. Everything in the Universe undergoes a change as the time progresses.

People undergo change

- Criminals - Disguise, *Alibi*
- Witnesses - Hostile, influenced
- Police - transfer, promotion, retirement
- Judges - transfer, promotion, retirement
- Lawyers - busy with new cases, priorities

- Prosecutors-transfer, promotion, retirement
- Places undergo change
- Crime scene - Contamination, weather, atmosphere, rain, sun, birds, animals, maggots
- Materials/objects also undergo change
- Objects/materials/matter - Volatile, decomposition,
- Chemical transformation, Physical transformation, Biological transformation.

Hence, the importance of speedy investigation, speedy trial and speedy -justice, as the justice delayed is justice denied.

Principle of Comparison

4. Only like things can be compared.

No purpose will be served if comparison is made between

- Black Fiber - Black hair
- Grey Hair - Grey Fiber
- Bullet .38 - Bullet .32
- Nylon Fiber - Cotton Fiber
- Telugu Writing - English Writing
- SBML - SBBL
- DBBL - Rifle

Principle of Analysis :

5. The analysis can be no better than the sample itself.

Hence, proper collection of sample and also its integrity and chain of custody are most important.

Law of Probability :

6. All identifications definite or indefinite are made consciously or unconsciously on the basis of Probability.

Mobile Scientific Investigating Units- CLUES Teams

554-1. Mobile Scientific Investigating Units briefly named as "CLUES" teams are being established in each District and each city zone to assist the Investigating Officers in Crime Scene Processing, Reconstruction and in all other matters requiring scientific and technical, investigative support to the District / City Police. Scientific Officer/Scientific Assistant borne on the strength of Andhra Pradesh Forensic Science

Laboratory heads these teams. They will report to the Director, APFSL in all scientific and technical matters, who in turn will constantly and regularly monitor, review and supervise their work regarding their technical functioning. However, they will work under the functional and operational control of the Supdt. of Police /Commissioner of Police of the respective districts/cities for operational efficiency and convenience and the SP/CP will inspect the CLUES team annually and initiate their ACRs. The Scientific Officers / Scientific Assistants will be assisted by a Lab Technician / Photographer cum Videographer borne on the strength of APFSL. A Fingerprints Expert of the rank of C.I/S.I/A.S.I borne on the strength of FPB/SCRB will be attached to the CLUES team.

2. The Director APFSL will provide a Vehicle and other equipment as given below.

A. **Maruthi Omni Van or any other suitable vehicle**

B. Crime Scene Recording Equipment

i. Video Camera

ii. Digital Photo Camera

iii. 35mm SLR Camera

C. Crime Scene Searching Equipment

i. Poli Ray - Multiple Wavelength Light

ii. White Beam Search Lights-EURO - 2 Nos.

D. Physical Evidence Lifting Equipment

i. Advanced Physical Evidence Collection Kit

ii. Sunken Foot Print Collection Kit

iii. Electrostatic Dust Print Lifting Kit

iv. Microsil (Tool marks, FP, Bite mark Lifting Kit)

v. Blood Evidence Collection Kit

E. Micro Examination Equipment

i. Binocular Microscope

ii. Flash Light Magnifier

F. Spot Test Kits

i. Narcotic Test Kit

ii. Explosive Test Kit

G. Finger Prints Developing Equipment

i. Cyanowand Kit

ii. Fluorescence Powders

iii. Fluorescence Magna Powders

iv. Universal Powders

v. Feather Brush Powder Applicators

vi. Magnetic Powder Applicators

H. Personal Computer with Modem and Printer for Data Storage, Exchange and Transmission

I. Furniture and fixtures

3. The SP/CP of the District/City will provide the following infrastructure /man power/resources for smooth and effective functioning of CLUES team.

A. Suitable accommodation in SP/CP office (size 5M x 6M) with provision for dark room with necessary power and water supplies.

B. Two PC drivers for the Mobile Vehicle to operate round the clock and one home guard for assisting the staff in crime scene processing.

C. Fuel for the vehicle and its maintenance.

D. Consumables such as films, video cassettes, floppy drives, batteries, camera cells, colour photo rolls, packing material, stationery etc., for day to day operation payment of repair charges for minor repair of cameras, video cameras etc.

E. Telephone connectivity for the computers to transmit online data and images of crime scene between the districts and FSL headquarters.

F. Budget for colour photograph printing, minor repairs of the equipment.

G. VHF/UHF wireless set for fixing to CLUES team Vehicle for communication.

H. Extension telephone from city/district police exchange for office and residence of Scientific Officer/Scientific Assistant and Finger Print Inspector.

The duties and responsibilities of Mobile CLUES team are given below

4 A. Video recording of the crime scenes along with the surroundings (including approach, entry and exit route of the culprits).

B. Photograph the vital clues from all perspectives using 35 mm Camera and Digital Camera.

C. Sketch the crime scene covering the place of occurrence and clues therein.

D. Systematic search for physical evidence other than what is visible and obvious.

E. Collection of all visible physical evidence by appropriate tools and techniques.

F. Collection of partially visible physical evidence such as blood, dust, fingerprints, fibres, footprints, hair, stains, marks and other microscopic evidence or anything that is likely to have been left behind or stays behind the offenders that are useful for establishing linkages.

G. To extend all possible assistance and guidance to the investigating officers. In collection of control samples collection of control physical evidence such as casts of footprints, shoe prints and other track marks; collection of tool marks on metals, wood, plastics and other medias, collection of controls and standards for all classes of physical evidence, especially in the matter of questioned documents, DNA fingerprints etc., and assisting the Investigating Officers in properly labelling, marking and preparing the Letter of Advice.

H. Proper preservation and packing of physical evidence and handing over to the I.O for forwarding to the FSL or other authorities concerned.

I. To co-ordinate with the Medical Officers, Bomb Disposal Team Officers or other scientific experts for prompt inspection of the scene of crime/victim/suspect.

J. Preliminary analysis of clues such as blood stains, semen, soil, paint, glass, hair, fibre and other routinely occurring evidence materials like stains, marks etc., so as to give leads to the Investigating Officers in the matter of proper collection of right samples for analysis.

K. Preliminary examination of tool marks on heavy vehicles such as buses, lorries, tractors, or light vehicles, cars, scooters etc., and other objects such as weapons, household articles, furniture, fixtures, machinery, and other non movable heavy articles.

L. Preliminary examination of explosive residues in cases of bomb explosions and examination of ingredients of defused bombs. In case of live bombs seized or recovered by Investigating Officers such examination should be done only after diffusion by the Bomb diffusion teams.

M. Physical and mental reconstruction of crime scene in close association with the investigating officers which may help the investigating officers in getting right leads for apprehension of offenders.

N. To impart theoretical and practical training in scientific methods to the Police Officers and assist the SP/CP in conducting district level police competitions.

O. To act as liaison officer between the District / City / Zonal Police Administration and District/Regional FSLs or FSL Hqrs. and to discharge any other scientific or technical functions as required by the Zonal / District/Sub Divisional Police Officers and Main/Regional/ District FSL authorities from time to time.

P. In short, the scientist in charge of CLUES team will act as PA (scientific) or scientific advisor to the SP/CP concerned in all matters relating to scientific criminal investigation processes.

Requisition of CLUES Team Mandatory in certain types of cases

5. It is mandatory for the Investigating officers to seek the assistance of the CLUES teams in cases involving/relating to a) explosions, b) firearms, c) arson, d) dowry deaths, e) homicide, f) property offences, g) mass disasters, h) road/train accidents, i) custodial deaths, j) use of force by police, k) industrial accidents and any other sensational crimes. Failure to requisition the services of the CLUES teams in the above types of cases will entail an appropriate disciplinary action.

Organisational Structure of APFSL

555. Director is the administrative and technical head of APFSL and functions under the overall control of DGP. There are four Joint Directors to assist the Director mostly in scientific matters. There is an Administrative officer to look after the routine administration matters. The Director is responsible for overall functioning of the laboratory including the Regional FSLs and Mobile Scientific Investigating Units (CLUES Team) located all over the state. As such, Director maintains close liaison with Senior Police Officers, senior officers of Home Department and other Government departments dealing with the criminal justice administration, in order to deliver prompt, reliable and efficient scientific services to the criminal justice system of the state. Director is also responsible for constantly upgrading the scientific skills and methods of scientific analysis through modernisation.

Addl. Director, FSL is responsible for overall supervision of the technical work and also should assist Director in other Administrative matters.

1. The four Joint Directors are responsible for supervising the work of different sections indicated below :

   Jt. Director, Biology -

   Biology, (including Bio-medical) Serology, and DNA

   Jt. Director , Chemical Sciences -

   Toxicology, General Chemistry, Narcotics

   Jt. Director, General -

   Documents, Polygraph, Forensic Computers

   Jt. Director, Physical Sciences -

   Ballistics, Physics, Forensic Engineering

2. The Assistant Directors are responsible for overall functioning of the 12 sections mentioned above. In all scientific matters relating to physical evidence collection, analysis, reports and their interpretation or for any clarification or advice the concerned Assistant Directors are to be contacted by Investigating Officers.

APFSL furnishes reports/opinions within 30 days.

3. All cases received by APFSL in all 12 sections will be examined by the respective Scientific Experts and the reports/opinions will be sent to the Forwarding Authorities within 30 days from the date of receipt. The Assistant Directors are responsible for timely reporting of cases. In the case of Polygraph, Chemistry, Bio-medical and Narcotics sections and in certain routine type of examinations conducted in Ballistics, Physics the reports/opinions will be sent within 21 days. Whenever, a report/opinion of expert is required within a short period ranging from 2 to 7 days, the I.Os should approach the concerned SP/DCP to send a DO letter for according priority in the case to the Director APFSL so that such cases will be taken up by APFSL/RFSLs on special priority and the reports/opinions furnished as desired.

   G.O.Ms.No. 170 Fin. & Plg. (FW:B4) Dept., dated 23-4-2001 of AP

4. In order to make the facilities and expertise available in APFSL to the public, in civil matters, it has been decided to extend these services in genuine cases by levying/collecting user charges to meet the analytical expenses. The following services are available for public on payment of fees indicated.

SI No.	Description	Fees	Unit
1.	Document cases in civil matters referred by Courts.	Rs. 750/-	Per case according to G.O.Ms. No. 335 of Home (Police-C) Dept, dt : 5-8-1993
2.	Document cases in civil matters consisting of large number of documents.	Rs. 750/-	
3.	Document cases in civil matters with large number of documents and complicated examinations	Fees to be fixed by Director, APFSL	
4.	Document cases in corporate matters.	Rs. 5000/-	Per case consisting of up to 10 documents
5.	Document cases in personal individual matters	Rs. 1000/-	Per case consisting of 5 documents
6.	DNA Profiling	Rs. 6000/-	Per case up to 3 samples
7.	Lie Detector Examination : a) Corporate & Commercial b) Individual cases	 Rs. 2500/- Rs. 1000/-	Per Subject
8.	R&D facilities for students: Research Scholars/Post doctoral Scholars	 Rs. 100/-	Per Sample
9.	Drugs Analysis referred from Drugs Control Department	Rs. 1000/-	Per case consisting up to 3 samples

Constitution of RFSLs :

556-1. Regional Forensic Science Laboratories are established to provide scientific analysis facilities to the Investigating Officers in their vicinity thereby avoiding transportation of Physical Evidence of certain types all the way to from remote districts. Further the Investigating Officers can save lot of time in transmitting and taking back the case property. Only such scientific sections receiving large number of cases and physical evidence, which is perishable in nature, requiring limited analytical facilities have been created in RFSLs. The sections that are available in RFSLs are Toxicology, Serology, Biology and Chemistry. Three RFSLs have already been established at Visakhapatnam, Vijayawada and Anantapuramu and eventually RFSLs/DFSLs shall be established in all Range/District headquarters in a phased manner.

2. The Regional FSLs are headed by Assistant Directors. The Assistant Directors of RFSLs will report to Director APFSL. They are responsible for the technical and administrative supervision of the

RFSL and for their effective and smooth functioning, One Assistant Director, two Scientific Officers, two Scientific Assistants and other technical staff assist them.

3. All cases referred to RFSL will be reported within 30 days of occurrence of crime. Sensational and complicated cases will be referred to the concerned sections of FSL Headquarters for analysis.
4. The I.Os working within the jurisdiction area of RFSLs may consult the Scientists of RFSL in the matter of collection of physical evidence of all types.

The section wise details regarding the nature of physical evidence handled, methods of analysis used and the type of analytical information which may be furnished

Ballistics

557-1. Ballistics is the study of projectiles in motion. The term ballistics is derived from the Latin word "ballista" which refers to a crossbow like device for throwing stones by means of twisted ropes. Forensic Ballistics is the examination and identification of firearm, cartridges, fired cartridges, fired cartridge cases, bullets, gun powder, wads, pellets, etc. Further ballistics section links the firearm with fired cartridge cases and bullets, determine the range of fire and angle of firing etc.

2. Nature of physical evidence received by the section, nature of examinations conducted and type of analytical information laboratory can provide is given below.

SI No.	Nature of Physical Evidence	Nature of examination conducted	Type of analytical information laboratory can provide.
1.	Firearms	1. Physical Examination	Whether it is company made or country made?
			What is its bore/calibre?
			What is the make and model?
			Whether it is prohibited or not?
			Whether it comes under the purview of Arms Act or not
		2. Test firing	Whether the firearm is in working order, if not what repairs are required
			Whether the firearm is prone to accidental discharge
			What is its effective range ?
		3. Chemical examination	Whether recently used for firing What type of gunpowder is used?
		4. Chemical Etching Method	If any erased markings are present to restore the original markings.

2.	Ammunition a) Cartridge	1. Physical examination 2. Chemical examination	What is its calibre / bore ? Whether it is company or country made What is its shot size number? Whether it is live or not Through which weapon they can be fired Whether it is re-loaded or not. What type of gunpowder is used?
	b) Empty cartridge case	1. Physical examination 2. Microscopic examination (i.e., firing pin mark, breech face mark, extractor & ejector marks and chamber marks) 3. Chemical examination	What is the calibre / bore ? From which type of weapon it was fired. Whether the empty cartridge cases were fired or not
	c) Bullets	1. Physical examination 2. Microscopic examination (Rifling marks i.e., lands, grooves, twist etc. and striation marks.	What is its calibre ? Whether the bullet was fired or not Whether it was fired from a company made or country made firearm.
	d) Pellets and wads	1. Physical examination 2. Chemical examination	What is the shot size number What is the size of the bore/calibre How many no. of cartridges were fired. What is it's make? What kind of gun powder was used to propel the pellets & wads ?

3.	Firearms along with empty cartridge cases & fired bullets	Under comparison microscope	To ascertain whether the empty case/bullet was fired from the firearm seized from the culprit.
4.	Clothes and skin pieces containing holes	1. Physical examination and under IR light 2. Chemical examination 3. Instrumental methods of analysis	How many no. of firearms were used ? How many no. of shots were fired? What is the range of firing ? Whether the holes are entry /exit/multiple entry by one bullet or not What type of gun powder was used for firing ? Whether the rents were caused by the laden projectiles or copper jacketed bullets etc.,
5.	Post-mortem certificates	Study	What was the range of fire ? What was the angle of fire ? Whether the wounds were entry or exit How many no. of shots/bullets were fired ?

3. Important precautions and guidelines for the collection of physical evidence involving firearms.

A. In case of a crime scene involving firearms all possible evidence such as firearms, empty cartridge cases, live cartridges, bullets, pellets, wads, gun powder and gun shot residue should be recovered after properly recording and photographing the position of each item.

B. Firearms in loaded condition should not be sent to Forensic Science Laboratory. If there is any difficulty in unloading the firearm the services of the ballistics expert has to be requisitioned. In extreme cases where the firearm has to be sent in loaded condition, the safety catch of firearm should be kept in safe mode and the constable who carries the case property should be informed about the loaded condition of the firearm and the parcel should be marked with red letters " *Handle with extreme caution- Firearm is in loaded condition*" .

C. The firing pin of the firearm should be protected with cotton before packing the firearm.

D. Empty cartridge cases and bullets should be packed separately in cotton.

E. Live cartridges should be packed in a wooden/card board boxes with proper padding.

F. Blood stained clothes and wads should be dried in shade and then packed separately taking due care not to disturb the gunshot residue.

G. While recovering bullets lodged in furniture, walls etc., care should be taken so that the rifling marks on the bullets are not disturbed.

Biology :

558-1. Biology is the branch of science dealing with the examination of biological materials encountered in crimes against persons or property. Biology section deals with the examination of hairs, fibres, diatoms, plant material like wood, leaves, seeds, fruits, flowers, pollens and cigarettes, beedies, zarda, insects, flies, maggots etc.

2. Nature of physical evidence received by the section, nature of examinations conducted and type of analytical information laboratory can provide is given below. The Investigating Officer should also bring the precautions/guidelines mentioned in sub-order 3 below to the notice of the Medical Officers for collection of evidence in an appropriate manner.

SI No.	Nature of Physical Evidence	Nature of examination conducted	Type of analytical information laboratory can provide.
1.	Hair : a) Loose hair found at crime scene, victim, suspect's clothes. b) Hair in the fist of victim/ deceased c) Hair in combs. d) Loose/ex-changed pubic hair of the accused on victim and vice versa. e) Hair on weapon	Macroscopic and microscopic examination for morphological characteristics	a) Human origin or not b) Animal origin c) Site of origin d) Comparison and matching hair for the commonness of source

2.	Fibres : a) Loose fibre found at crime scene, victim, suspect clothes b) Ropes c) Cloth bits d) Cords e) Fibres adhering to vehicles	a) Macroscopic and microscopic examination for identification b) Flame test to distinguish classes of fibres c) Solubility tests	a) Whether fibres or not b) Whether natural or manmade c) Whether the fibres in question belong to the same original source.
3.	Diatoms : a) From sternum, long bones, liver, kidney, heart b) Control water sample	Microscopic examination	a) Detection of diatoms b) Comparison of diatoms to confirm whether they belong to same source or not.
4.	Wood : a) Wood fragments b) Saw dust c) Wooden logs/splinters d) Broken wooden parts of the weapon etc.	a) Macroscopic examination for physical characterisation b) Microscopic examination for anatomical characterisation	a) Detection of wood. b) Comparison of wood to determine whether the questioned and control came from the same source.
5.	Tobacco : a) Cigarettes b) Cigars c) Zarda d) Beedies	a) Macroscopic examination for physical characterisation b) Microscopic examination for anatomical characterisation	a) Detection of tobacco leaves b) Comparison of tobacco leaves to fix the source /commonness of origin
6.	Pollen : a) Pollen adhering to clothes of victim/suspect b) Pollen adhering to flooring c) Surrounding flora	a) Macroscopic examination for physical characterisation b) Microscopic examination for species identification	a) Detection of pollen b) Comparison of pollen to confirm whether they belong to same origin or not.
7.	Insects, flies, maggots etc. Live or dead maggots from dead body	Macroscopic examination for physical characterization and for species identification	a) Detection of maggots and flies b) To determine the time since death

2. Important precautions/guidelines for the collection of Physical evidence :

1) Hair : loose hair; hair in the fist; hair in combs; loose exchanged pubic hair; hair on immovable objects like furniture, hair on weapons etc.	Hair samples should be collected with rubber tipped forceps air-dried and packed in a paper packet; pack the weapon along with hair sticking to it carefully in paper packet. Preferably 25 control hair samples and as many crime samples to be sent.
2) Fibre : a) Loose fibre, fibres found adhering to vehicles/ other objects b) Ropes: cloth bits; cords	Fibre samples should be collected with rubber tipped forceps and packed in a paper packet . Tag and place in polythene covers
3) Diatoms : a) Sternum, long bones, liver, kidney, heart b) Control water sample	To be placed in a bottle containing saturated sodium chloride 2-3 litres of water should be collected in sterile bottle from where the dead body was found.
4) Wood : a) Wood fragments b) Saw dust c) Wooden logs, splinters, broken wooden part of the weapon	Place the article to which the material is sticking in paper packet, use forceps where necessary. Pack in paper packet.
5) Tobacco : Cigarettes, cigars, zarda, beedies	Pack in paper packet.
6) Pollen : a) Pollen adhering to clothes of victim/suspect/other objects b) Surrounding flora as control	Place the article to which the material is sticking in paper packet, in case it is sticking to person or other objects such as vehicles, etc., the materials should be collected using clean forceps and placed in paper packet Pack in paper packet.
7) Insects : a) Dead maggots from dead body b) Live maggots from dead body	To be collected in a sterile bottle containing alcohol. To be collected in wide mouthed bottle with a small piece of flesh inside. The mouth of the bottle should be covered with gauze cloth to allow sufficient aeration. (Weather conditions at the crime scene should be noted in both the cases).
8) Other Plant materials : Leaves, flowers, bark etc.	To be packed in paper packets.

Bio-medical

559-1. Bio-medical section deals with the examination of skull, bones etc., by using combination of biological/ anthropological and medical knowledge for the purpose of personal identification and determination of age, sex, stature etc.,

2. Nature of physical evidence received by the section, nature of examinations conducted and type of analytical information laboratory can provide is given below.

SI No.	Nature of Physical Evidence	Nature of examination conducted	Type of analytical information laboratory can provide.
1.	Skull with/without mandible and photograph of deceased	a)Superimposition b) Examination of suture pattern on the skull. c) Computerised photo skull software	a) Whether the skull belonged to person in the photograph or not. b) Age and sex of person
2.	Bones	Osteometry	Age, Sex, and stature.

3. **Guidelines for Investigating Officers :**

1. The skull should be intact and clean.
2. The photograph should be clear showing the facial portrait preferably taken recently.
3. Bones should be packed separately in paper packets or aluminium foil.

Chemistry :

560-1. The Chemistry Section deals with analysis of a wide range of materials encountered in cases of explosives, adulteration of fuels, acid burning, fire, spurious goods etc.

2. Nature of physical evidence received by the section, nature of examinations conducted and type of analytical information laboratory can provide is given below :

SI No.	Nature of Physical Evidence	Nature of examination conducted	Type of analytical information laboratory can provide.
1. Bomb blast cases	Explosive remnants in the form of pieces of thread, cloth, glass, soil from the crater etc., and also other affected objects in the vicinity of explosion.	Spot tests, thin layer chromatography, instrumental methods of analysis using GC, GC-MS, HPLC etc.	a) Whether explosive or not. b) Low or high explosive. c) Approximate quantity of explosive charge and risk potential. d) Type of explosive device. e) components used for explosion.

2. Recovery / seizures. Live explosives	Representative sample of chemical substances and components collected by the bomb defusal experts.	Spot test, thin layer chromatography, Instrumental methods of analysis using GC, HPLC etc.	a) Nature of explosive substance. b) Low or high explosive.
3. Fire / Arson / Burning	Partially burnt and affected material objects like clothes, objects in vicinity along with ash etc.	Spot test, steam distillation, thin layer chromatography, Instrumental methods of analysis using GC.	Whether any fire accelerants are present or not
4. Sale of spurious, substandard / duplicate goods. Manufactured goods.	Samples of pain balm, tooth-powders, tooth pastes, detergents, cosmetics, Engine oils etc.	Appropriate chemical and instrumental analysis.	a) Whether the samples are genuine or spurious. b) Nature of deviation from standards.
5. In cases of Vitriolage (Acid throwing)	Affected clothing material, containers seized at scene, pieces of skin, soil and other affected objects.	Colour tests, In-organic chemical analysis.	a) Nature of acid. b) Corrosive potency.
6. Sale/use of different chemical substances.	Unknown powders, substances etc.	Chemical analysis together with instrumental methods depending upon the type of samples.	The qualitative and quantitative nature of substances.
7. In cases of suspected adulteration of fuels, petrol, H.S Diesel Oil etc.	Samples of Motor spirit and High speed diesel	Density, distillation, flash point, kinematic viscosity etc. and instrumental analysis using gas chromatography.	a) Whether the fuel samples referred for examination are genuine or adulterated. b) Nature of adulterant. c) Percentage of adulterant.

3. Important precautions and guidelines

A. Explosive Remnants

i. Samples for examination in cases of explosion should be collected from the crater (seat of explosion) apart from other affected areas.

ii. Pieces of wire, detonator, containers, clock mechanism, batteries, plastic pieces, nails, metal scrapings, sawdust etc., should be collected from the scene of offence.

iii. In cases where it is not possible to collect explosive affected remnants from an immovable object, cotton swab preferably moistened with acetone from the affected objects should be collected.

B. Fuel Samples (Petrol/HSD)

i. Fuels should be referred for examination in glass bottles or aluminium containers, but never in plastic bottles.

ii. Samples for examination should be sent within two working days from the date of seizure.

C. Fire/Arson/Burning

i. The sample should be collected from the origin point of fire and sent for examination within two working days from date of occurrence.

ii. In cases of Arson the un-burnt portion of the material stored in godowns /warehouses etc., should be sent as control.

D. Spurious Samples

Control samples of the same batch number and of same volume and weight should be sent for comparison.

Computer Forensics

561-1. This section deals with the examination of digital storage media encountered in various types of Cyber crimes viz., computer frauds, credit & debit card frauds, online crimes, sending obscene mails, publishing pornography, browsing child pornography, unauthorized interception, software piracy, video piracy, theft of source code, preparation of fake certificates/documents such as counterfeit notes, security bonds, educational certificates, sale deeds, etc.,

SI No.	Nature of Physical Evidence	Type of analytical information laboratory can provide.
1.	CPUs, Laptops, Hard disks, Pen drives, Servers, CD/DVDs, Memory cards etc.,	Working condition of the storage media . Retrieval of incriminating data contained in the storage media including deleted data. Internet History, Web pages, e-mail accessing details, e-mail content, Meta data of files & MAC address of the device.

2.	GSM, CDMA mobile phones, SIM cards, Memory cards, Modem etc.,	Working condition of the device. Contacts, SMS text messages (including deleted), Images, Audio & Video files retrieved and given in soft/hard copy. 1. To retrieve information such as name of the network provider - usually printed on the SIM and phone No. associated with the SIM. Subscriber name, Phone records. 2. To retrieve all incoming messages (stored by default). 3. Outgoing messages (stored only at the explicit request). 4. To recover Deleted files, Short Dial Number and last number dialed. 5. To find out IMEI 6. To indicate the Settings of the mobile 7. Logged incoming calls and dialed numbers. 8. Logged incoming calls and dialed Nos. 9. To retrieve stored executable programme 10. To retrieve stored calendar events.
3.	CD/DVD containing source code of complainant, digital storage media seized from accused. CD/DVD containing pirated movies and CD/DVD containing original movies as specimen. Digital Video Recorder	Whether the storage media seized from accused contains source code pertaining to complainant or not. Whether the CD/DVD seized from accused contains pirated movies or not is furnished on comparison with specimen. Retrieval of CCTV video footage of required duration.

Precautions to be taken by the investigating officers while handling computer evidence :

1. The Investigating Officers are advised not to switch off the 'Live' suspected Computers until the RAM dump is acquired.
2. Advised to Photograph the screen and back side close view of computer with existing connections.
3. In case of raiding on the offices, internet cafes where number of computers are more, I.Os are advised to contact FSL scientists before seizure.
4. I.Os are advised not to send Monitor, Keyboard, Mouse, UPS to forensic science laboratory. In case of all in one computer system (Ex: Apple MAC) the same may be forwarded to FSL.
5. Advised not to keep seized computer systems, memory devices, cell phones etc., near to high power magnetic field or electric gadgets.

6. All the seized materials should possess *panch* chit & proper labeling in correlation with letter of advice and to be packed by using appropriate packing material. They should be sealed with lac seal which possess unique identification symbol. Clear sample seal should be provided in the appropriate column of Letter of Advice/Forwarding letter.

DNA (De-oxyribo Nucleic Acid):

562-1A DNA section deals with DNA fingerprinting of all types of forensic samples of human origin like, blood, blood stains, semen, seminal stains, vaginal swabs, tissues, bones, hair, teeth, saliva and other skeletal remains. It also deals with paternity/maternity testing which are useful in solving disputed parentage, swapping of child from hospitals, illegal adoption and immigration cases. This section can also undertake examination, of samples of animal or plant origin wherever required.

B. DNA or De-oxyribo nucleic acid is the genetic material present in the nucleus of cells in all living organisms and DNA is unique for each and every individual just like finger prints. It is the DNA present in every one of us that makes us distinguishable from each other. Hence, DNA is an excellent identification parameter which differs from individual to individual.

C. Deoxyribonucleic acid, or DNA, is sometimes referred to as our genetic blueprint because it stores the information necessary for passing down genetic attributes to future generations. Residing in every cell of our body (with the exception of red blood cells, which lack nuclei), DNA provides a 'computer programme' that determines our physical features and many other attributes. The complete set of instructions for making on organism, i.e. all the DNA in a cell, is referred to collectively as its genome.

D. Half of the DNA is inherited from a person's mother and the other half from his/her father. Siblings inherit different combinations of DNA from the same parents and are therefore different from each other. Each generation of people is a new and different combination of generic material from the previous generation. In identical twins, each person's DNA is unique. Presently technology is available for examination of every single difference between people's DNA.

E. Within human cells, DNA found in the nucleus of the cell (nuclear DNA) is divided into chromosomes, which are dense packets of DNA and protection proteins called his tones. The human genome consists of 22 matched pairs autosomal chromosomes and two sex determining chromosomes. Thus, normal human cells contain 46 different

chromosomes or 23 pairs of chromosomes. Males are designated XY because they contain a single copy of the X chromosome from mother and a single copy of the Y chromosome from father; while females contain two copies of the X chromosome one each from mother and father and are designated XX. It is father who contributes X or Y chromosomes.

F. Given this uniqueness of DNA, physical evidence collected from crime scene can either link a suspect to the crime scene or eliminate him just like fingerprints. It is possible to collect DNA from blood, skin cells, semen, hair roots, urine and saliva. The types of materials useful for DNA analysis are: i) Blood and blood stains ii) Semen and semen stains iii) Bones iv) Teeth v) Hair with root vi) Hair shaft vii) Saliva viii) Urine ix) Faeces x) Debris from fingernails or broken fingernails xi) Muscle tissue xii) Cigarette butts xiii) Postage stamps (licked) xiv) Envelope sealing flaps xv) Dandruff xvi) Fingerprints xvii) Personal items: razor blade, chewing gum, wrist watch, ear wax, toothbrush xviii) clothes, xix) tools, xx) used toothpick, xxi) bottles, xxii) bite marks.

G. The direct transfer of DNA from one individual to another individual or to an object can be used to link a suspect to a crime scene. This direct transfer could involve:

i. The suspect's DNA deposited on the victim's body or clothing;

ii. The suspect's DNA deposited on an object;

iii. The suspect's DNA deposited at a location;

iv. The suspect's DNA deposited on the suspect's body or clothing;

v. The witness DNA deposited on victim or suspect; or

vi. The witness DNA deposited on an object or at a location

H. DNA evidence collection from a crime scene must be performed carefully and a chain of custody established in order to produce DNA profiles that are meaningful and legally accepted in court. DNA testing techniques have become so sensitive that biological evidence too small to be easily seen with the naked eye can be used to link suspects to crime scenes. The evidence must be carefully collected, preserved, stored, and transported prior to any analysis conducted in a forensic DNA laboratory.

2. Nature of physical evidence received by the section, nature of examinations conducted and type of analytical information laboratory can provide is given below.

SI No.	Nature of Physical Evidence	Nature of examination conducted	Type of analytical information laboratory can provide.
1.	Evidence for Individualisation a) Blood & blood stains b) Semen & seminal stains, vaginal swabs, garments with seminal stains. c) Saliva on Cigarette butts, bottles, glasses etc., d) Hairs with roots e) Teeth f) Bones g) Tissue / skin	1. Extraction of DNA 2. Quantitation 3. Quality check 4. PCR Amplification for STR 5. Gene scan analysis 6. Interpreta-tion of results	a) In rape cases, whether the seminal stains belong to the suspect or not. b) In murder cases, whether the bloodstains belong to the suspect or not. c) In man missing cases, the DNA from bones, tissues, teeth, hair belong to the nearest blood relations of the missing person or not
2.	Evidence for paternity / maternity testing a) Blood from the child b) Blood from the mother c) Blood from disputed father	1. Extraction of DNA 2. Quantitation 3. Quality check 4. PCR Amplification for STR 5. Gene scan analysis 6. Interpretation of results	a) Whether the person is biological father of child. b) Whether the child is biological off spring of the father/mother
3.	Evidence from Animals a) Skin b) Tissues c) Blood	1. Extraction of DNA 2. Quantitation 3. Quality check 4. PCR Amplification for STR 5. Gene scan analysis 6. Interpretation of results	Whether the skin / tissues / blood etc., belong to the particular animal or not
4.	Evidence from plant material a) Seeds b) Roots c) Leaves d) Flower etc.,	1. Extraction of DNA 2. Quantitation 3. Quality check 4. PCR Amplification for STR 5. Gene scan analysis 6. Interpretation of results	Whether the seeds / roots / leaves / flower etc., belong to particular origin/ source or not.
5.	In child swapping cases	1. Extraction of DNA 2. Quantitation 3. Quality check 4. PCR Amplifica-tion for STR 5. Gene scan analysis 6. Interpreta-tion of results	To determine who is the biological mother/father of the child/children.

3). Collection storage & transportation of DNA samples

Sl. No.	Sample	Collection
1.	Blood	Should be collected in sterile vial with EDTA 5 ml of blood in case of adults & 2-5ml in case of children.
2.	Blood stained clothes	Blood stained garments should be thoroughly dried in shade & packed in separate paper packet.
3.	Blood stained articles / weapons etc.	In case the stains are dry, scrape the stained area, keep in paper envelope & seal or swab the stains with sterile gauze cloth soaked with saline, dry and pack separately.
4.	Semen / seminal stains / vaginal swabs	Air dry and pack in separate paper packets.
5.	Hairs	Hair with roots to be air dried and packed in separate paper packets.
6.	Tissues of skin, muscle etc.,	Muscle tissues to be collected in clean glass bottle add 20% Dimethyl sulphoxide or sodium chloride.
7.	Bones	Whole bones like femur, Humerus to be collected and packed in separate paper packets and kept in aluminum foil and frozen.
8.	Teeth	Teeth should be packed in dry paper packets and sealed (Molar or canine are preferred).
9.	Visceral matter	Collect Intestine, spleen and heart (avoid liver).

Notes :

1) Avoid contaminating the area where DNA might be present by not touching it with bare hands, or sneezing and coughing over the evidence.

2) Use clean latex gloves for collecting each item of evidence. Gloves should be changed between handling of different items of evidence.

3) Samples should be packaged in paper envelops or paper bags after drying. Plastic bags should be avoided because water condenses in them, especially in areas of high humidity and water can speed the degradation of DNA molecules. Packages should be clearly marked with case number, item number, collection date, and initialed across the package seal in order to maintain a proper chain of custody.

4) Stains on immovable surfaces (such as table or floor) may be transferred with sterile cotton swabs and distilled water. Rub the stained area with the moist swab until the stain is transferred to the

swab. Allow the swab to air dry without touching any others. Store each swab in a separate paper envelop.

5) Invariably the persons should be directed to APFSL for blood collection, but in case they are unable to do so on account of health or age, the sterile vials with preservative may be collected from laboratory. The blood so collected should be labeled and sealed properly and transported in ice so as to reach the laboratory within 24-48 hours. Blood should not be drawn from a person who has undergone blood transfusion till three months.

6) The above precautions and guidelines should be brought to the notice of the medical officer for collection of evidence in an appropriate manner. With every blood sample collected by the medical officer from the individual an identification form should be got filled up.

Andhra Pradesh Forensic Science Laboratory

IDENTIFICATION FORM

[REQUIRED WHEN FRESH BLOOD SAMPLES ARE COLLECTED]

NAME IN FULL…….....

SEX: Male/Female ..... AGE: ……Years …….. Months .....

NAME OF THE FATHER/HUSBAND/GUARDIAN

ADDRESS……

FORWARDING AUTHORITY :

Cr. No : PS : District :

Brief description of the case and the purpose for which blood is collected from the person above.

SAMPLE COLLECTION DETAILS :

Date : ( )

Place : Name & Signature of person collecting blood.

Volume of sample collected :

Genetic Abnormalities, if any (Specify) ……..

DECLARATION OF PERSON from whom the sample is collected for DNA Fingerprints

I, ……, hereby certify that the blood given to FSL, for DNA fingerprints, is mine and I did not receive a blood transfusion within last three months.

(Signature of donor or guardian)

Certified that the ……, was collected in the presence of the following witnesses;

1) Name : Signature :

2) Name : Signature :

[For Office use] FSL File No :……

DOCUMENTS

(Sec.61 to 73-A of I.E. Act deal with documentary evidence, Sec.74 to 78 deal with Public documents)

563-1. **Documents - comparison of hadwritings etc.**

As the name implies the document section deals with several problems relating to documentary frauds. The examination conducted by the laboratory include

A. Handwriting, signatures, initials etc.
B. Erasures (Mechanical and Chemical)
C. Secret and invisible writings
D. Indented writings/pressure marks
E. Alterations of writings
F. Additions and deletions of writings
G. Traced, simulated and other forms of forgery
H. Forged rubber stamp/metal impressions, postal cancellation marks
I. Anonymous letters
J. False Certificates, marks lists
K. False ration cards, passports & pass books
L. False vehicle registration books
M. False Wills & agreements
N. False Traveller cheques & credit cards
O. Forged / tampered Bank cheques & Drafts
P. Examination of ink
Q. Examination of paper
R. Examination of type/printed matter
S. White-collar crimes such as land scams, share certificates etc.
T. Torn, mutilated and charred documents

1. Nature of physical evidence received by the section, nature of examinations conducted and type of analytical information laboratory can provide is given below.

SI No.	Nature of Physical Evidence	Nature of examination conducted	Type of analytical information laboratory can provide.
1.	Writings / initials / Signatures	Comparison with known standards	To fix the authorship with the suspected person/persons
2.	Erasures (Mechanical and Chemical)	Examination under different light sources	Confirmation whether erasure exists or not and if possible to decipher the original writings.
3.	Obliterations	Examination under different light sources	To decipher the obliterated writings.
4.	Indentations	Examination under ESDA, Poly view and VSC-4.	To develop the indented writings.
5.	Tampered documents consisting of alterations, additions, insertions etc	Examination under different light sources.	To establish whether the document is tampered and if possible to decipher the original writings.
6.	Type writings/Printed Matter	Comparison with known standards	Whether they are printed by the same type writer/printing machine or not
7.	Rubber stamp impressions /Metal seal impressions	Comparison with known standards.	Whether the impressions are made by the same stamp/seal or not
8.	Paper	Comparison with standards	To establish commonness of source/origin and relative age of documents, where possible
9.	Ink	Examination under different light sources and using instruments such as FTIR, HPTLC etc.	To establish whether the ink is of same origin or not
10.	Torn, mutilated & charred Documents	Examination under different light sources	To decipher the original writings.
11.	Secret/Invisible Writings	Examination under different light sources / heat / water / other media.	To decipher the original writings.
12.	Credit Cards/ Identity cards	Examination under UV/IR/oblique light sources	To determine whether they are original or duplicate/false.

Precautions and guidelines for collection of standards

(Sec.311-A Cr.PC: Power of Magistrate to order person to give Specimen handwritings. Such evidence is admissible u/s 47, 67 of I.E. Act.

564-1. Standards: Hand writings or signatures or initials etc., written by a known person taken for the purpose of comparison with the questioned are known as Standards. Standards also include typed/printed scripts, seals and stamp impressions etc., taken from a known source. Standard Writings are of two types (a) Admitted and (b) Specimen.

A. Admitted : Admitted writings are those written by a person in his/her routine course of activity/business, which are freely written, natural and undistorted. Such writings are normally available in case of employees, students, working class people, professionals, business men etc. The most suitable admitted standards are those which belong to the same general class (post-card with post-card) and contemporary (near about date/ month/ year) to the questioned documents. The investigating officer should endeavour to collect standards, which would enable the expert to compare "LIKE WITH LIKE" i.e., initials with initials, signatures with signatures, writings with writings of the same language, cheques with cheques and so on and so forth depending on the nature of the documents. The admitted standard material can be procured in the following forms of documents

i. **Personal Correspondence:** Post cards, applications for employment / loans / services like electricity, telephone etc, ration cards / passports / diaries / account books etc.

ii. **Academic Records:** School/College/applications, answer scripts, notes, records, project reports etc.

iii. **Financial and Business Documents:** Passed bank cheques, applications for demand drafts, withdrawal forms, account opening forms, specimen signature cards, ledgers, receipts etc.

iv. **Vocational & Professional Documents:** Official correspondence, leave letters, applications for loans, (P.F., LIC etc.,) attendance register, legal documents, etc.,

v. **Miscellaneous Documents:** Railway reservation forms etc.

B. **Specimen** : Specimens are the writings specially written by the suspect for the purpose of comparison with the disputed documents. This is usually done either in the open court or in the presence of presiding officer in accordance with Sec.311-A Cr. PC. However, the specimen writing of the suspect can be taken only if he volunteers to give. For collection of such specimens, there are some essential points to be

followed to facilitate expert's examination meaningful, objective and conclusive, as indicated below :

i. The suspect should be seated in a comfortable posture to ensure comfort and natural writing conditions.

ii. He/she should be supplied similar paper and writing instruments (pen/ ball pen) as that of the questioned.

iii. The suspect should not be shown the questioned document

iv. The dictation should be given to the suspect at different intervals to prevent the suspect from imitating the same style.

v. After each dictation, the sheet of specimens should be removed, and a fresh sheet of paper to be supplied.

vi. The suspect should be encouraged to write the word combination and numerals as present in the questioned sample several times.

vii. At least 20 specimen signatures / writings on different sheets should be taken. In case of deliberate efforts to disguise, more specimens should be taken.

viii. The specimen writings/signature should be taken in the open court and attested by the Judicial Officer/Magistrate.

2. **Marking** : The process of segregating the disputed portion of text from out of the total document by marking distinctively for comparison is known as 'Marking of documents'. The questioned portions should be encircled and numbered as Q1, Q2, Q3 …… respectively, whereas the standard portions should be encircled and numbered as S1, S2, S3,… respectively.

Handling and Preservation of Documents

3 A. Documents should be handled with clean hands carefully.

B. They should not be cut, torn or trimmed even if they are bigger in size.

C. Partially torn documents should be joined with clean cellophane tape carefully.

B. Documents should not be exposed to moisture, sun-light etc.,

D. Documents should be packed in clean paper/cloth lined/cellophane covers.

E. The investigating officer should not make any additions or under lines on the disputed or standards portions.

F. The Investigating Officer should put initial, date and numbering etc., in one corner, away from the marked portions

G. Documents should be sent in as is where is condition.

H. Charred documents should be carefully lifted and placed in a suitable card board box and should be transported with care.

Forensic Engineering

565-1. Forensic Engineering deals with applications of engineering principles and methodology to determine the cause of failure of a man-made machine, a structure, a bridge, a building, a dam, or to know the cause of accident of a motor vehicle, aero plane, train, ship or any other vehicle in motion or it may simply be to evaluate the strength and quality of materials so as to know whether it is meeting the specifications and standards laid down and so on. In all these instances the Investigating Officer will be able to elicit such information to distinguish between a natural failure, accident or a sabotage or involvement of any other human factors with a view to fix the responsibility for failure, accidents or spurious and sub standard materials.

Voice is frequently involved in the cases of kidnapping for ransom, threatening calls, anonymous calls, hoax calls, drug pedaling exchange of information across the border and **abduction, blackmailing, obscene calls , extremist violence etc..** In such cases the scientific investigation of the recorded voice collaborates scientific evidence in respect of speaker identification.

Forensic Speaker Identification

The section also deals with Forensic Speaker Identification to link the suspect to the voice recorded in cases such as abduction, blackmailing, obscene calls, extremist violence etc. The technique of speaker identification requires two types of samples namely questioned sample (crime sample) and specimen samples (control samples of suspect).

Audio authentication and video authentication:

To establish whether the suspected video is edited, tampered, doctored. Whether it is representing a true incident that actually happened , whether the person in the video is morphed. To identify the person in the video with the photograph of the suspect.

Audio and video evidence enhancement

The purpose of using audio recording or security camera systems is to document evidence of any matter of significance. But when uncontrollable circumstances interfere with the listener or viewer's ability to recognize action or dialogue, or identify persons and things, the evidence could be rendered useless without enhancement. Recent technological advancements have assisted in resolving a majority of the complications affecting clarity and intelligibility.

The importance of video and audio tape authentication :

Whenever, video or audio tape evidence is introduced a chain of custody verification is sufficient; by conducting a forensic examination of the video or audio tape, preparing and supplying the appropriate authentication documentation, and/or providing expert witness testimony.

Where possible tampering brings serious doubt on a specific video or audio tape unless proper authentication has been conducted. Using forensic analysis of the original digital or analogue recordings, an expert will document and/or testify to the indications which suggest tampering has occurred.

There is a general requirement of the forensic process which permits the technical expert to attempt a correlation between the unique signature pattern imprinted by the equipment with the points in the recording where tampering might be suspected. This is especially important for audio tape authentication purposes.

1. Nature of physical evidence received by the section, nature of examinations conducted and type of analytical information laboratory can provide is given below.

SI No.	Nature of Physical Evidence	Nature of examination conducted	Type of analytical information laboratory can provide.
1.	Cement Mortar pieces from the debris of collapsed building, dam, bridge etc.	a) Chemical tests b) Mechanical tests c) Physical tests d) Instrumental Analysis e) Design / structure evaluation	Whether the collapsed building/wall/bridge/dam/structure is on account of substandard materials or improper design or human failure or due to aging.
2.	Components recovered and seized in the road /rail / air accidents including evidence of drag marks, skid marks etc. on the ground	a) Chemical tests b) Mechanical tests c) Physical tests d) Instrumental Analysis e) Design /structure evaluation	Whether the accident is caused on account of component failure or human failure or design failure or other reasons.
3.	Manufactured goods used in automobiles, industries and other sensitive installations	a) Chemical tests b) Mechanical tests c) Physical tests d) Instrumental Analysis e) Design / structure evaluation	Whether the goods are meeting the specifications claimed by the manufacturer.

4.	Forensic speaker identification Audio authentication and video authentication	Physical tests Instrumental Analysis	Analog or digital audio video recordings Overt – CCTV Covert (listening devices, telephone intercepts). Incidental (e.g. an incident recorded accidentally or in the background to something else. Emergency services. "Careline" services. Calls to banks, other financial institutions, insurance companies, bookmakers. Calls from prison. Radio communications. Other Recordings : Voicemail and answering machine messages. Broadcast (e.g. radio or "YouTube" Courtroom proceedings. Hearings, tribunals, inquests. Black box" recordings "Fakes"
5.	Speaker identification / verification, image/portrait verification, audio/video recording & storage devices authentication, etc.	Physical tests Instrumental Analysis	To establish whether the suspected video is edited, tampered, doctored, whether it is representing a true incident that actually happened; whether the person in the video is morphed etc. To identify the person in the video with the photographs of the suspects.
6.	Video tapes, MMS in mobiles, CCTV footages, e-mail photos, Web page postings, Satellite, chat messages, Facebook A/c, Twitter chatting, WhatsApp messages, Picasa (site app), Orkut messages, Tumbler Skype Audio and video authentication, Telephone tapping, audio cassettes, mobile conversation, whatsApp, voice distortion.	Physical tests Instrumental Analysis	Speaker identification to link the suspects to the voice recorded in cases of abduction, blackmail threatening calls, defamatory calls, derogatory calls, mails, SMS, hoax calls, conspiracy calls for ransom kidnap. Whether the suspected video is edited tampered, doctored, deleted modified. Whether it is representing a true incident that actually happened. Whether the person in the video is morphed. To identify the person in the video by comparing it with the photographs of the suspect.

Precautions and Guidelines for the Collection of and Recording of Speech/Voice Samples for Identification of Speaker :

Voice is frequently involved in the cases of kidnapping for ransom, threatening calls, anonymous calls, hoax calls, drug pedaling and exchange of information across the border. In such cases the scientific investigation of the recorded voice collaborates scientific evidence in respect of speaker identification. The technique of speaker identification requires two types of samples namely questioned sample (crime sample) and specimen samples (control samples of suspect).

The following are the guidelines for obtaining speech samples for the purpose of speaker identification.

Recording of questioned voice samples :

a) Questioned samples can be obtained through a high quality tape recorder (like TIR – Telephone Information Recorder) installed at police Hqrs.

b) For telephone calls Recording – System / TIR should be connected to the victim's telephone lines directly. A good quality tape cassette of sixty minutes should always be available in the tape recorder.

c) Mobile phone calls may be through mobile-to-mobile phone or through landline telephone to mobile or mobile to landline telephone. In case of mobile to mobile and landline telephone to mobile calls, the conversation can be recorded on receiving mobile phone itself by inbuilt chip or by taking the output from the mobile at receiving end through a cable-jack for input in the computer or tape recording device. In case of mobile to telephone calls, the conversation can be recorded on telephone information recorder (TIR).

d) The recorded questioned samples can also be obtained by using hidden or under cover transmitter of a tape recorder. In such cases the voice-activated recorder or digital pen recorder is preferred. Sometimes FM transmitter microscope is preferred to record conversation so that the process of recording can be done remotely.

Recording of specimen voice samples :

i. An accurate transcript of the text of the recorded criminal call / conversation should first be made.

ii. Investigation Officer should become familiar with the transcript (the rate of speaking and oral characteristics of the criminal's voice) prior to obtaining samples of the known persons.

iii. Recording system should be set up with a telephone line if the recording of the criminal is to be obtained through the telephone (Direct recording is also acceptable).

iv. The recording of the specimen sample should be performed in presence of two independent witnesses. The witnesses should speak about their particulars like name, father's name, residential locality, occupation etc., and he also should speak that "I Mr. Y son of Mr. A residence of B locality, in my presence the speech sample of Mr. X is being recorded.

v. In case suspect is not educated and he cannot read the prepared text or transcript, the sample can be recorded by making the conversation with the suspect. The conversation should be prolonged in such a manner that the relevant words are repeated a number of times. The similar text in the same language should be prepared for recording the specimen samples.

vi. The recording should be repeated as many times as felt necessary.

vii. A reasonably quiet environment should be maintained.

viii. The microphone should be placed about 30 cm from the mouth of the suspect. The recording system should ensure a frequency response as same as or better than the telephone line.

ix. Make the suspect conversant with the specimen speech before the recording starts.

x. The speaker should be at a distance of about one foot from the microphone and should speak with normal speed and loudness. It is an essential requirement to stabilize the speech of the speaker for which he may be asked to speak continuously for two minutes before he reads the prepared text. The speaker should be directed not to speak too fast or too slow but he should read / speak normally.

xi. The investigator should make all efforts to eliminate as much background noise as possible by not playing radio. TV and Air conditioners, fans or overlapping conversation.

xii. In the event of a suspect disguising his voice, the I.O. should ask for the repetition of disguised words, until he feels satisfied.

xiii. Recording should be played back before the defendant or suspect leaves so that any deficiency of the sample can be corrected.

Precautions :

1. Analog recorder: Fresh Chromium Oxide Cassette Tape (C 60) should be used; Cassettes C-90 or C-120 should not be used. As far as possible, the tape-recorders should be operated on 220 volts. A.C. In other cases, new batteries are to be used for each recording. The recording should be made with a speed of not less than 4.75 cm/sec.

2. Digital recorder: A good quality BIS / ISO certified digital audio video recorder should be used.

3. The recording system should be tested prior to the actual recording of the samples.
4. Original recordings should be properly labelled.
5. Recorded cassettes/ medium / flash disk/ micro SD card should be properly labelled.
6. Questioned and specimen samples should be on separate cassette with proper marking and packing.
7. Recorded cassettes should be kept away from "Magnet".

   Guidelines for a forwarding specimen image / photo for video /image examination:

   A clear close up photo/ digital image of the suspect should be provided as specimen sample. The photo/ image should be similar to the questioned item in – pose/ condition i.e. direct pose or in similar angle to the questioned item. i.e. 180 degrees direction from left to right side and also vertical angles.

Note: **Irrelevant portion of the recording should not be deleted by the Investigating Officer rather than it should be pointed out.**

566. Narcotics

1. The word narcotic is derived from a Greek word "Narcotics" means lethargy or sluggishness. According to the "Pharmacologists" narcotics are the drugs, which adversely affect the activity of the central nervous system. In Medicine they are used for the relief of the pain, to induce sleep and to treat psychiatric disorders under medical supervision, but the misuse or over dose leads to dependence, addiction, toxic symptoms and death. Forensic Narcotics section deals with examination of narcotic drugs and psychotropic substances (including drugs of abuse and distilled liquors) such as opium, cannabis etc, and liquors, liquor adulterant or illicit distilled liquors, chloral hydrate, alprazolam, diazepam etc.
2. **Nature of physical evidence received by the section, nature of examinations conducted and type of analytical information laboratory can provide is given below**.

SI No.	Nature of Physical Evidence	Nature of examination conducted	Type of analytical information laboratory can provide.
1.	Illicit distilled liquor	a) Physical Examination b) Chemical Tests c) Steam distillation d) Instrumental methods of analysis.	a) Whether any alcohol/higher alcohol are detected b) Composition of alcohol c) Whether it is adulterated or mixed with any other poison. d) Quantitative estimation where it is positive.
2.	Toddy and toddy adulterants	a) Physical Examination b) Chemical Tests c) Steam distillation d) Instrumental methods of analysis.	a) Whether any alcohol/sedative /chloral hydrate is detected b) Composition of alcohol c) Whether it is adulterated or mixed with any other poison d) Quantitative estimation where it is positive.
3.	Plant materials	a) Physical Examination b) Chemical Tests c) Steam distillation d) Instrumental methods of analysis.	a) Whether any plant alkaloids like ganja, opium and other narcotic drugs detected. b) Nature of the poison. c) Quantitative estimation where it is positive.
4.	Tablets etc.	a) Physical Examination b) Chemical Tests c) Steam distillation d) Instrumental methods of analysis.	a) Whether any narcotic drugs/psychotropic substance is detected. b) Nature of the poison. c) Quantitative estimation where it is positive.

3. Guidelines for proper collection of samples for Narcotic Examination

1) The quantity to be drawn in each sample for chemical test shall not be less than 5 grams in respect of all narcotic drugs and psychotropic substances except in the case of opium, ganja and charas (hashish) where a quantity of 24 grams in each case is required for chemical test. The seized drugs in the packages/containers should be thoroughly mixed to make it homogeneous and representative sample is drawn from it.

2) Liquids like toddy to be filled in bottles to avoid spillage due to leakage or damage of package.

3) Live plant material and other damp/wet exhibits should be dried under shade prior to submission. This includes marijuana, opium poppies.

4) Fresh plant material when packaged in airtight containers such as plastic bags, decays rapidly and can inhibit or possibly eliminate the chance of detecting a controlled substance.

5) Suspected fresh Khat should be frozen and submitted as soon as possible.

6) Suspected LSD should be kept away from direct light.

7) Care should be taken when packing more than one exhibit in the same package cross contamination of exhibits can occur.

8) All submitted items must be mentioned in the letter of advice.

Physics :

567 Forensic Physics is the study of physical properties of material evidence by examining the surface characteristics, morphological features and other physical parameters such as length, size, shape, pattern, design, weight, volume, density, refractive index, fluorescence, elemental composition etc. The Physics section deals with the examination of wide range of materials such as soil, glass, paint, tool marks, foot prints, foot wear prints, tyre impressions that are commonly found at the scene of offence and also undertakes examination of restoration of erased numbers, counterfeit currency notes, spurious manufactured articles etc.,

(i) Nature of physical evidence received by the section, nature of examinations conducted and type of analytical information laboratory can provide is given below.

SI No.	Nature of Physical Evidence	Nature of examination conducted	Type of analytical information laboratory can provide.
1.	Soil: Soil, mud, dust, debris	a) Physical b) Microscopic c) Particle size d) Fluorescence e) Density f) Elemental analysis	Whether the soil samples have originated from the same location / spot or not
2.	Glass: Glass pieces, fragments, glass panes with fractures.	a) Physical b) Physical Matching c) Microscopic d) Fluorescence e) Density analysis f) Refractive index g) Elemental analysis	1) Whether a glass piece found at crime scene was originally from of the control sample such as glass bangle / window / sheet glass, spectacle lens, head lamp etc. or not 2) In case of fracture of a glass window/ glass sheet determination of force direction and sequence of fractures etc.

3.	Paint : Paint flakes, chips and smears	a) Physical b) Physical Matching c) Microscopic d) Reaction to solvents e) Paralysis Gas Chromatography f) IR Spectra photometry elemental analysis	Whether the two paint samples originated from the same source or not.
4.	Restoration of Erased Numbers: Erased numbers on vehicles, firearms and other valuable gadgets.	a) Visual examination b) Under magnification c) Polishing d) Chemical etching examination under oblique light	To restore the original numbers.
5.	Tool Marks: Tool marks on doors, windows, locks, wires, and other surfaces.	a) Visual Examination under magnification b) Stereo Microscope / SEM c) Photography	Type of tool used whether the tool marks on the questioned were made by the suspected tool or not.
6.	Foot Prints	a) Dimensions b) Shape c) Pattern d) Margins e) Toe marks f) Crease, Phalange, cut marks etc g) Other peculiarities	Whether the crime foot print and the suspect footprint are of the same individual or not.
7.	Foot wear Prints	a) Dimensions b) Shape c) Pattern & design d) Studs, nails e) Number of patches, shape & size f) Wear & tear g) Other peculiarities	Whether the crime print was made by the suspected footwear or not.
8.	Tyre Prints	a) Dimensions b) Design c) Tread Pattern d) Wear & Tear e) Distance between ridges & angles f) Other peculiarities	Whether the crime print was made by the suspected tyre or not.

9.	Spurious Articles: (in the form of labels, trademarks, brand name, logo, specifications etc., found on the covers, packages) Cement, soap, washing/talcum powders, pain balms, oils, fans, gutka, seed, seals, printed matter, court fee stamps, machine parts etc.,	a) Physical parameters such as length, size, shape, pattern, design, weight, volume, density. b) Microscopic Examination c) Fluorescence under Ultra Violet Radiation	Whether the labels, trademarks, brand name, logo etc, found on the covers / packages of the spurious article tallied with the standard or not.
10.	Counterfeit Currency : Counterfeit Currency notes, materials used for counterfeiting such as paper, ink, blocks, screen printing devices etc	a) Visual b) Dimensions c) Stereomicroscopic d) Examination under transmitted light e) Fluorescence under ultra violet radiation f) Scanning electron microscope	1) Whether the suspected/questioned notes are counterfeit or not 2) Whether the materials such as blocks, inks, paper, screen printing devices etc., were used to print the suspected notes or not.

(ii) Guidelines and precautions in the collection of :

A. Soil

1. Control soil samples should be collected from the upper layer randomly as close to the scene as possible without contamination.
2. Care should be taken so as not to destroy other trace materials that may be present.
3. If the soil is found adhering to an object, as in the case of soil on a shoe, the I.O must not remove it. Instead the object should be wrapped in a paper with the soil intact and transmitted to the laboratory.
4. When a lump of soil is found, it should be collected and preserved intact.
5. If a foot print or tyre track indentations in question penetrates into subsoil that is different from the top soil then it is necessary to obtain samples of both the top soil and sub soil separately.
6. Dirt in the fingernails has to be scrapped and collected in a clean paper. Scrapings from other fingernails should be packed and sent as control samples.
7. Dust and dirt from pockets and trouser folds should be collected by means of small clean brush.

B. Glass

1. The evidence of glass must be photographed and their location noted on the sketch before they are touched or moved.
2. The fragments of glass, which may lodge in or adhere to the clothing of perpetrator or fall in his pockets or trouser folds, shoes etc, should be searched / collected.
3. While collecting glass or glass fragments, fingerprints, dust or dirt, blood stains, other foreign matter should be well protected.
4. All available pieces, fragments should be collected to examine the commonness of source or origin.
5. Control glass should always be taken from any remaining glass in the window or door frames, as close as possible to the point of breakage.
6. Fragments of glass, which may be adhering to or embedded in the tyres of the suspected vehicle, should be collected.

C. Paint

1. When transfer of paint occurs in hit and run accident, uncontaminated control sample must always be collected from near the surface of the vehicle as was suspected of being in contact with the victim's vehicle with the help of a clean scalpel or a knife/blade.
2. Control sample should also include all the paint layers down to the base metal.
3. Loose paint chips from a garment or from the road must be collected carefully and should be packed in small plastic containers.
4. Each paint sample should be separately packed and marked as to the exact location of its recovery.

D. Tool Marks :

1. The tool marks should be protected with cotton.
2. In case of theft of electric wires etc., the crime cut end to be examined should be marked properly and the other end cut by the investigating officer should be bent so as to distinguish from crime end.
3. The crime tools recovered should not be put to use before forwarding to FSL.

E. Foot Prints and Footwear Prints

1. If the footprints are on easily removable articles, they should be packed and forwarded.
2. If the prints cannot be immediately removed or recorded they should be covered with inverted hollow cardboard boxes or any other suitable objects.

3. If footprints are in open places, adequate precautions should be taken for protection.

4. All prints and impressions should be photographed before attempting any other method.

5. While taking photographs

i. The lens of the camera should be kept parallel to the surface on which the print is found.

ii. A scale or foot rule is to be kept along the length of the footprint.

iii. A paper containing identification details such as date, crime number police station, location, left/right foot print etc., should be kept besides the footprint.

6. In case of tracing of footprints

i. The sheet of glass or celluloid should not actually touch the impression.

ii. The sheet should not be moved until the tracing is complete.

iii. The lines should be drawn as thin as possible.

iv. The part of the foot for which the tracing is to be made, the tip of the pen and the eye should be in a line vertically above the print.

v. The clear edge of the different parts of the footprint should be shown in thin continuous lines. The faint and doubtful impressions may be shown with dotted lines.

F. Spurious Articles

Control sample of same size, batch, manufacturing date has to be procured from authorised dealer/ manufacturer along with certificate as that of the suspected article.

Polygraph :

568-1. The word 'polygraph' denotes graphic representation of multiple/many parameters under examination. In the present context the parameters under study are meant for knowing whether a person subjected to the examination is telling truth or lying. In other words the polygraph test is intended for lie-detection of the person under examination. That is why the polygraph equipment is also known as lie-detector and the process is known as Lie-Detection.

However, the Hon'ble Supreme Court Bench in *Selvi vs State of Karnataka* Criminal Appeal No.1267/2004 of May 5th, 2010 have observed *inter alia*..... "the compulsory administration of any of these techniques is an unjustified intrusion into the mental privacy of an individual.....placing reliance on the results gathered from these techniques comes into conflict with 'right to fair trial'. Invocations of

public interest cannot justify the dilution of constitutional rights such as "right against self-incrimination". No individual should be forcibly subjected to any of the techniques in question".

As regards admissibility.....

The Supreme court said....." even when consent is given the test results by themselves cannot be admitted as evidence because the subject does not exercise conscious control over the response during the administration of the test. However, any information or material that is subsequently discovered with the help of voluntary administered test results can be admitted in accordance with Sec 27 of Evidence Act. Guide lines for Administration of Polygraph test (Lie Detector Test) on an Accused in 2000 were published by NHRC. These guidelines should be strictly adhered to and similar safeguards should be adopted for conducting the 'Narco-analysis technique' and the 'Brain Electrical Activation Profile' test. The text of these guidelines has been reproduced below:

(i) No Lie Detector Tests should be administered except on the basis of consent of the accused. An option should be given to the accused whether he wishes to avail such test.

(ii) If the accused volunteers for a Lie Detector Test, he should be given access to a lawyer and the physical, emotional and legal implication of such a test should be explained to him by the Police and his lawyer.

(iii) The consent should be recorded before a Judicial Magistrate.

(iv) During the hearing before the Magistrate, the person alleged to have agreed should be duly represented by a lawyer.

(v) At the hearing, the person in question should also be told in clear terms that the statement that is made shall not be a 'confessional' statement to the Magistrate but will have the status of a statement made to the Police.

(vi) The Magistrate shall consider all factors relating to the detention including the length of detention and the nature of the interrogation.

(vii) The actual recording of the Lie Detector Test shall be done by an independent agency (such as a hospital) and conducted in the presence of a lawyer.

(viii) A full medical and factual narration of the manner of the information received must be taken on record.

2. Nature of evidence received by the section, nature of examinations conducted and type of analytical information laboratory can provide is given below.

Nature of Evidence	Nature of examination conducted	Type of analytical information laboratory can provide.
Persons/subjects brought for examination include suspects victims complainants witnesses	Lie- detector tests are conducted on persons using polygraph instrument by putting appropriate questionnaires to study the responses found in his/her respiratory, circulatory and perspiratory parameters which are the measures distinguishable between "Truth and Deception". The individual gadgets used in Polygraph for studying these parameters are pneumograph -for respiratory, cardiograph - for circulatory & galvanograph -for perspiratory.	Whether the statement/ statements of the subject regarding his/her involvement in the crime under investigation appears/appear to be True/False, and whether the subject is telling lie or withholding the truth.

Important precautions and guidelines to be followed by Investigating Officers

3. Before bringing the subjects for Lie-detector tests, the I.Os are to follow the following precautions, in addition to NHRC guide lines and Supreme Court Judgement, Dt:5-5-2010 mentioned above.

A. Willingness of the subject to undergo Lie detector tests is a must for conducting polygraph examination and such consent should be recorded before a Judicial Magistrate.

B. A requisition from Judicial Officer or a Police Officer not below the rank of SDPO is to be sent to Director FSL, requesting for fixation of date and time for examining the subjects.

C. The I.O should bring the subject along with

i. FIR copy and letter of advice

ii. Statement of the subject

iii. Sketch of scene of crime, where applicable.

D. The I.Os should not use any third degree method/ methods on the subjects.

E. No intensive interrogation should be made on the subjects.

F. In case of pregnant women, diabetic, cardiac patients a written permission from the subject's doctor should be obtained.

G. The I.O should see that the subject is not with empty stomach while being brought for examination.

H. The subject should not take any drugs in the 24 hours prior to examination.

I. A good night's rest is necessary to the subject while being brought for examination on the following day.

Serology :

569-1. The word serology is derived from the word "Serum" which means a pale yellow liquid contained in the blood. As such serology section deals with the examination of blood and other body fluids of human origin. The body fluids include semen, saliva, sweat, urine, feces, vaginal secretions etc. Body organs, tissues, teeth, bones etc., are also examined. The section also undertakes examination of blood and body tissues of animal origin.

2. **Nature of physical evidence received by the section, nature of examinations conducted and type of analytical information laboratory can provide is given below :**

SI No.	Nature of Physical Evidence	Nature of examination conducted	Type of analytical information laboratory can provide.
1.	Blood: a) Stained clothes b) Weapons etc., stained with blood c) Furniture, boulders, flooring or any other immovable articles stained with blood d) Soil impregnated with blood e) Liquid blood	a) Bio-chemical tests for detection of blood b) Immunological tests for origin of species and blood grouping	a) Whether blood stains or not b) Human or Animal Origin c) Blood group
2.	Semen: a) Stained clothes b) Urethral swabs stained with semen c) Seminal stains from immovable articles d) Vaginal swabs stained with semen e) Pubic Hair stained with semen f) Nail clippings stained with semen g) Liquid Semen	a) Florescence studies for location of seminal stains b) Biochemical tests for detection of semen. c) Microscopic Examination for presence of spermatozoa d) Immunological tests for Origin of species and blood grouping	a) Whether semen was present or not b) Detection of spermatozoa c) Blood group

3.	Saliva: a) Liquid saliva b) Cigarette butts, beedi butts etc., stained with saliva c) Gags stained with saliva d) Tumblers stained with saliva e) Eatables stained with saliva f) Stamps, envelopes etc., stained with saliva g) Bite marks stained with saliva	a) Physical examination for location of saliva b) Biochemical tests for detection of saliva c) Immunolo-gical tests for Origin of species and blood grouping	a) Whether saliva is present or not b) Human Origin c) Blood group
4.	Urine: Urine stained clothes/ soil	a) Physical examination for location of urine stains b) Biochemical tests for detection of urine c) Immunolo-gical tests for Origin of species and blood grouping	a) Whether urine is present or not b) Human or animal Origin c) Blood group
5.	Faecal matter : Faecal stained clothes	a) Physical examination for location of faecal stains b) Biochemical tests for detection of faecal matter c) Immunolo-gical tests for Origin of species and blood grouping.	a) Whether faecal matter is present or not b) Human or animal Origin c) Blood group
6.	Tissues, Skin etc.: a) Tissues, skin present on nail clippings b) Tissues, skin adhering to clothes c) Tissues, skin adhering to weapons	a) Physical examination for location of tissues skin etc. b) Biochemical tests for detection of tissues etc. c) Immunolo-gical tests for detection of Origin of species and blood grouping	a) Human or animal Origin b) Blood group
7.	Bones, teeth etc.: a) Bones, teeth etc. b) Exhumed/un-identified skeletal remains	a) Immunological tests for Origin of species and blood grouping	a) Human or animal Origin b) Blood group

3. Important precautions and guidelines for the collection of Physical evidence :

Sample	Collection procedures
1) Blood : a) Stained clothes	Thoroughly dry in shade. Pack each bloodstained garment separately in dry paper parcels. Pack in dry moisture resistant paper parcels and not in polythene packets.
b) Weapons etc., impregnated with blood; Furniture, fixtures,boulders, flooring or any other immovable articles	In case stain is thick, scrap the stained area using a clean knife/blade into a clean dry paper packet. Alternatively swab the area using sterile gauze cloth wetted with normal saline. Each stain should be collected using separate gauze cloth. Air-dry and pack them separately in dry paper parcel. Unused gauze cloth should be sent as control. (Avoid sending heavy articles such as furniture, fixtures, cots, boulders, stones, pounders etc.)
c) Soil impregnated with blood	Superficial blood stained soil should be collected and packed in paper parcel. Adjacent unstained soil should also be sent as control.
d) Liquid blood	To be collected using sterile gauze cloth wetted in normal saline. Unused gauze cloth should be sent as control.
2) Semen : a) Stained clothes	To be air-dried and packed in dry paper parcels. Avoid folding, crushing the stained area in the process of packing.
b) Swabs, Vaginal swabs	Air-dry the swabs and pack them in clean dry glass vial/bottle.
c) From immovable articles	To be collected using a sterile gauze cloth wetted in normal saline. Air-dry and pack them separately in dry paper parcels.
d) Pubic hair; Nail clippings	Air-dry and pack them separately in dry glass bottles.
e) Liquid Semen	To be collected using sterile gauze cloth wetted in normal saline. Air dry and pack in dry glass bottle. Unused gauze cloth should be sent as control
3) Saliva : a) Liquid saliva	To be collected using sterile gauze cloth wetted in normal saline. Unused gauze cloth should be sent as control.
b) Cigarette butts, beedi butts etc.	Air-dried and packed in paper parcels.
4) Skin etc. : Tissues found at Crime scene	Collected in a clean glass bottle containing saturated with sodium chloride.
5) Bones :	Whole bones like Femur, Humerus, rib bones etc., to be collected and packed in dry paper parcels (or) should be kept in aluminium foil and frozen.
6) Teeth :	Teeth to be packed in dry paper parcel.

Note :

1) The Investigating Officer should bring the above precautions/guidelines to the notice of the Medical Officers for collection of evidence in an appropriate manner.

2) Gloves may be used to handle the garments or any other biological specimen as the cells of the person collecting may contaminate the samples.

Toxicology

570. The word "TOXICOLOGY" is derived from a Greek word "TOXICON". Toxicology is defined as the science embodying the knowledge, sources, characters, fatal effects, lethal doses and analysis of poisons.

The Section deals with examination of human and animal viscera in case of suspected death due to poisoning to determine the cause of death. The examinations include qualitative analysis of all types of poisons such as organic, in-organic, metallic, non-metallic, volatile poisons etc. In specific cases quantitative estimations are carried out. The section also examines cases of alcohol in suspected drunken driving and consumption of alcohols.

570-1: GUIDELINES FOR I.Os FOR PACKING AND FORWARDING CASE SAMPLES TO THE LABORATORY.

2. Nature of physical evidence received by the section, nature of examinations conducted and type of analytical information laboratory can provide is given below.

SI No.	Nature of Physical Evidence	Nature of examination conducted	Type of analytical information laboratory can provide.
1.	Viscera	a) Physical Examination b) Chemical Tests c) Instrumental Methods of Analysis.	a) Whether any poison/ drug / other toxin is detected. b) Nature of the poison.
2.	Body fluids (blood, urine, stomach wash)	a) Physical Examination b) Chemical Tests c) Instrumental Methods of Analysis.	a) Whether any poison/ drug / alcohol is detected. b) Nature of the poison / alcohol.
3.	Bone and Ash	a) Physical Examination b) Chemical Tests c) Instrumental Methods of Analysis.	a) Whether any metallic poisons/ toxin is detected. b) Nature of the metallic poison.

4.	Utensils/ Vessels which contained suspected poisons	a) Physical Examination b) Chemical Tests c) Instrumental Methods of Analysis.	a) Whether any poison / drug / other toxin is detected. Nature of the poison
5.	Liquor Bottles	a) Physical Examination b) Chemical Tests c) Instrumental Methods of Analysis.	a) Whether any poison/drug /alcohol is detected. b) Nature of the poison/alcohol.
6.	Stained cloths ; Vomit Materials ; Food Materials ; Water Samples ; Suspected Soil ; Tins (Pesticides) ; Syringes / Syringe needles ; Drugs / Poisons mixed with soft drinks	a) Physical Examination b) Chemical Tests c) Instrumental Methods of Analysis.	a) Whether any poison / drug / other toxin is detected. b) Nature of the poison.
7.	Medicinal/ Table wrappers	a) Physical Examination b) Chemical Tests c) Instrumental Methods of Analysis.	a) Whether any drug is detected. b) Nature of the drug.
8.	Drugs, pesticides and other unknown poisons.	a) Physical Examination b) Chemical Tests c) Instrumental Methods of Analysis.	a) Whether any other toxic substance is present in the material objects. b) Nature of the poison / drugs.
9.	Ground glass pieces	a) Physical Examination b) Chemical Tests c) Instrumental Methods of Analysis.	a) Whether any mechanical poison is detected. b) Nature of the poison.
10.	Plant roots	a) Physical Examination b) Chemical Tests c) Instrumental Methods of Analysis.	Whether aconite is detected.
11.	Plant materials like leaves / bark / fruits / seeds / latex	a) Physical Examination b) Chemical Tests c) Instrumental Methods of Analysis.	a) Whether vegetable poison is detected. b) Nature of the poison.
12.	Powdered plant materials ; Plant products mixed with food.	a) Physical Examination b) Chemical Tests c) Instrumental Methods of Analysis.	a) Whether vegetable poison is detected. b) Nature of the poison.

Precautions and guidelines for collecting and forwarding appropriate material for toxicological evidence

3. In-order to obtain optimum results the right kind of viscera/body fluids should be collected by the Medical Officer in desirable quantity and preserved properly in suitable containers and forwarded without delay to the Forensic Science Laboratory. The Investigating Officers are advised to give a requisition to the Medical Officers to collect the samples as per the guidelines.

1) Viscera / body fluids should be preserved for toxicological analysis in the following manner :

Material	**Quantity**
Stomach	Whole
Stomach contents	Up to 100gms/ml
Small intestine (Jejunum)	30 cms
Liver	50 to 100 gms
Kidney	One half of each kidney

2) In all cases of poisoning, including carbolic acid, saturated solution of common salt should be used as preservative.

3) In cases where poisoning by acids is suspected (except carbolic acid), rectified spirit should be used as preservative. Denatured alcohol or formalin should never be used while preserving the samples for toxicological analysis.

4) Tablets / powder should be packed neatly in fresh paper or polythene covers.

5) For determining the alcohol levels in living persons, suspected to have consumed alcohol 10 ml of blood using fluoride/liquid paraffin as preservative and a minimum of 10 ml of urine sample should be collected and forwarded.

6) In case of burn victims to determine the levels of carbon monoxide, 10ml of blood sample preserved in liquid paraffin in a glass bottle should be collected and forwarded.

7) No useful purpose will be served by chemical analysis of viscera in case of electric shock victims and persons known to have died due to diseases like TB, Cancer, Hepatitis, Aids etc. Hence the I.Os should accordingly not ask the M.Os to collect such samples for chemical analysis.

8) Similarly, it will be of no consequence if chemical analysis of viscera is carried out in case of natural deaths due to starvation, sunstroke, old age, lightning, extreme cold etc.

9) In case of hanging the Medical Officer having observed fracture of hyoid bone arrives at a conclusion that death is due to hanging, there is no additional advantage in referring the visceral organs for chemical analysis.

10) In case of drowning where the Medical Officer arrives at a definite opinion that the cause of death is due to drowning, no additional purpose will be served by chemical examinations.

11) Testing for Diatoms in visceral organs, spleen & bone marrow may be most useful in cases of drowning. In such case control sample of the water in which body was recovered should be taken in a separate container.

12) In case of snakebite or other insect bites, samples of skin bits of affected area should only be collected and forwarded.

13) In cases of hanging, drowning, burns, accidents etc., the Medical Officers may sometimes refer the viscera if any suspicious circumstances arise which are to be recorded clearly to conduct proper analysis.

14) In case of deaths due to administering injections the sites of injections, skin subcutaneous tissues along with needle tract weighing about 100gms should be collected. Similar material from symmetrical side of the body should also be taken as control in a separate container.

15) While packing syringes with sharp needles they should be packed in such a manner the personnel do not get injured or punctured during handling.

16) In case of inhaled poisons like carbon monoxide, coal gas, hydrocyanic acid, chloroform or other anaesthetic drugs the lung tissues, brain and blood from the cavity of the heart should be preserved and forwarded.

17) Shaft of long bones (8 to 10 cms of femur), a tuft of head hair, finger and torn-nails and some muscles should be preserved in suspected cases of chronic poisoning by heavy metals like arsenic, lead, antimony etc. In case of prolonged use of drugs like barbiturates samples like Hair, Nails are to be collected for chemical analysis.

18) A piece of heart, portion of brain and spinal cord should be preserved if poisoning is by nux-vomica or strychnine.

19) Brain and urine should be preserved in suspected cases of poisoning by barbiturates, opium or anaesthetics.

20) In highly putrefied bodies, larvae, maggots, pupa and other entomological samples should be preserved.

21) In embalmed bodies vitreous humour from eyeballs usually remains uncontaminated by the process and may serve the purpose of analysing urea, creatinine and ethyl alcohol.

22) Fatty tissue should be taken from abdominal walls in case of pesticide poisoning.

23) Soil samples from above, beneath and sides of the dead body and control soil samples away from the dead body should be taken in cases of exhumed or skeletonised dead bodies.

Each Exhibit is to be labelled with Cr.No Exhibit No. as in letter of advice and Name of the PS.

Bombs and Explosives – Role of Investigating Officer

571-1. Explosives: are substances, which under suitable conditions of Initiation undergo a sudden chemical change releasing large amount of heat and pressure in the form of gases, which rapidly expand producing violent physical disruption of the surrounding environment. The heat energy released by the explosion serves to expand the gases causing them to push on the walls in surrounding areas with great force. Finally, the walls, vehicles or any other objects would fragment and fly outwards in all directions. It is this flying debris or sharpnels that produce devastating effect causing danger to life and limb in the immediate vicinity of such explosions. The speed at which explosives decompose varies greatly from one another and provide basis for their classification as high and low explosives. In the low explosive, this speed is called the speed of deflagration (burning). This is characterised by very rapid oxidation producing heat, light, and high-pressure wave. In high explosives, it is called speed of detonation. Detonation refers to the creation of a extremely high shock wave within the explosive charge.

2. **Low explosives** : Low explosives decompose relatively slowly at rates that vary up to 1000 meters per second. Because of their slow burning rates, they produce a propelling or throwing action that make them suitable as propellants for ammunition or skyrockets. However, they can result in violent explosions, if they are confined to a relatively small container and detonated. As most of these chemicals are otherwise useful in the manufacturing of household articles such as matchsticks, fireworks, fertilizers, etc., those with malicious intentions can have access to these substances. This is the main reason for several instances of explosions caused by these materials. Examples are Gunpowder, Smokeless powder and Potassium or Sodium chlorate mixtures.

3. **High Explosives** : The sensitivity of these explosives is the basis of classifying high explosives into 2 groups called initiating or primary high explosives and non-initiating or secondary high explosives.

4. Initiating or primary high explosives are ultra-sensitive to heat, shock or friction, and under normal conditions will detonate violently instead of burning. For this reason they are used to detonate other explosives, which causes chain reaction and are referred to as primers. They form ingredients of the blasting cap. Examples are Lead azide, Lead Styphnate, and Mercury Fulminate.

5. Non-initiating explosives are relatively insensitive to heat, shock or friction. They will normally burn rather than detonate if ignited in small quantities. This group comprises the majority of high explosives used for commercial and military blasting. Examples are TNT (trinitrotoluene) called Dynamite, PETN (penta erythritol tetranitrate), RDX (cyclotri methylenetri nitramine), tetryl (2,4,6 – trinitrophenyl methyl nitramine).

6. The use of explosives in faction fights and terrorist and extremist violence is common. Whenever, a bomb explodes it leaves its remnants in the form of pieces of glass, metal stones, paper; threads of jute, cotton or coconut fibre; coloured powders, soil, etc. By examining these remnants it is possible to know the nature of their contents and perhaps the source of manufacture and the origin of the individual constituents of the explosive devices.

7. **Methods of analysis**: Remnants from the exploded and defused bombs and explosives are analyzed by semi-micro analysis, flame photometric analysis methods etc., to detect various cautions and anions, nitro-compounds in high explosives. The detection and identification techniques range from simple chemical tests or animal olfactory detection to the proposed sophisticated analytical techniques like ion chromatography, capillary electrophoresis, scanning electron microscopy-energy dispersive x-ray spectroscopy gas chromatography with electron capture detection, gas chromatography-mass spectrometry, and high performance liquid chromatography. The future challenges for forensic science laboratories shall be the detection of fertilizer-based explosives.

8. **Types of cases** : In practice, police are required to deal with two types of situations where explosives are found. In the first type, the Investigating Officers come across explosives in the form of raw chemical substances and other components like shells, wires, detonators, batteries etc., or in ready to use IEDs recovered or seized. In the second type the Investigating Officers come across scenes of explosions where the effect of explosives is found in the form of damages to the persons and property.

9. Since these explosive substances are useful for civil, commercial and military purposes they are available for the genuine users having valid license or authorisation. On the other hand use of these substances by any unauthorised person for the purposes other than the purposes for which license is granted is punishable by law. The Explosives Act, the Explosives Substances Act and the Rules made there under contain the law and procedure dealing with explosives.

10. Whenever, explosives are used with criminal intent the police have to prove the motive, opportunity and means of such illegal use by the persons involved therein. The Investigating Officers and the police authorities should therefore, follow systematic procedure for identification, handling, diffusion, sampling and disposal of explosives and their remnants, and also to know the agencies responsible for dealing with various types of explosive substances and instances of misuse or abuse of such substances. In the following paragraphs details of various agencies dealing with explosive substances and their jurisdiction, duties and responsibilities are given. In case of any doubt or ambiguity the officers dealing with such cases should consult any one of the agencies of Chief Controller of Explosives, Nagpur.

11. Whenever, live bombs/explosives or components of bombs/ explosives are seized by the Investigating Officers and also as and when explosions take place, it is necessary to follow certain systematic procedures and practices in accordance with the rules and regulations contained in Explosives Act 1884, Explosive Substances Act 1908 and Explosives Rules 1983 as also the guidelines for safe handling, diffusion, sampling, destruction and disposal.

Military Explosives – Role of Military Bomb Disposal Squad :

12. Military explosives such as grenades, shells, anti-personal and anti-tank land mines etc., are handled exclusively by the officers of Military Bomb Disposal Squad attached to the Sub Area Commander located at AOC Centre, Secunderabad. The Investigating Officers should therefore, bring such discoveries or recoveries to the notice of Sub Area Commander, Army Headquarters, Secunderabad immediately through SDPOs/Courts for necessary action. All Military Explosives can be easily identified by the markings such as year, type etc.

Civil Explosives – Role of Deputy Chief Controller of Explosives

13. Civil explosives coming under schedule I of Explosive Rules, 1983 listed below will be exclusively dealt by the Deputy Chief Controller of Explosives, Sultan Bazar, Hyderabad for diffusion, assessment and disposal. Therefore, the Investigating Officers should forward such

cases through Courts/SDPOs to the Deputy Chief Controller of Explosives only.

14. Authorised explosives (Civil explosives) like Gunpowder (class – 1 explosives), Dynamites/Gelatin such as Superdyne, Formadyne, Dynex, Acquadyne, Safex, Kelvex, Indogel, Salvo Super, Idealboost, Hyprime (class –2 explosives), Ajax-G, Polar Viking, Polar Ajax, Special Gelatine, Noblegel, Telgex, Bharatgel etc. (class – 3 Nitro compound explosives), safety fuse (class – 6, division –3) Fireworks belonging to class - 7 division - 2, Slurry explosives such as ANFO (Ammonium Nitrate Fuel Oil Mixture) etc., belonging to class – 2 are generally received by the Deputy Chief Controller of Explosives for examination and report (vide Letter No. G. 19(219) dated 23.05.95 addressed to Director, FSL)

Common Types of Bombs and IEDs

15. The following types of Bombs and improvised Explosive Devices are commonly encountered by the Investigating Officers in the State of Andhra Pradesh.

A. Country made throw down type bombs in different shapes and sizes.

B. Improvised hand grenades similar in appearance to Military explosives made of hardware material like pipes.

C. Land mines.

D. Claymore mines. (usually placed in metallic pipes/cylinders)

E. Position bombs / Booby traps (e.g. effigy bombs, TV / letter / book bombs etc.)

F. Remote control bombs (Infrared, Microwave Control)

G. Time bombs. (Quartz clock, Time pencils, pre-determined timers (integrated Circuits), Timers used in household gadgets like washing machine timers etc.)

H. Incendiaries (Petrol bombs/Molotov cocktails, Acid bulbs)

I. IEDs, bombs/in any other shape, form, and design.

16. The basic raw materials, explosive in nature commonly used for making the IEDs and bombs include the following chemicals:

A. Gunpowder (sodium/potassium nitrate, carbon and sulphur in black/ brown colour)

B. Potassium chlorate (dull white powder having shades of yellow/grey)

C. Arsenic sulphide (orange powder).

D. Sulphur (yellow powder)

E. Phosphorus (red powder).

F. Aluminium (grey metallic powder).

G. Potassium nitrate (white crystalline/pale yellow).

H. Ammonium nitrate (white crystalline)

I. Charcoal (black powder)

J. Gelatin Sticks consisting of Nitro-glycerine, Nitro-cellulose (straw/ red coloured)

K. ANFO Sticks (Ammonium Nitrate and Fuel Oil) (Grey in colour)

L. RDX (normally white but can be modified to black/yellow/orange and other colours)

M. TNT (pale yellow to brown).

N. PETN (white)

O. SEMTEX (Consisting of RDX with PETN – in any additive colour).

P. PEK (Plastic Explosives) (yellow, plasticine like) or

Q. Any other single or mixture of chemicals, which can cause explosions in combination or alone.

Components used in making Bombs / IEDs

17. Grenade shell, metallic tins, pipes, sharpnels (pieces of glass, nuts, screws, nails, blades, stones, metal/glass balls and aluminum flakes etc.), thread rolls, safety fuses, detonators, batteries (wet/dry), exploder dynamo, detonating cord, wires, switches etc., and Oils like Petrol, Diesel, Grease, Petroleum Jelly, Acids, etc.

18. Only such cases of Bombs and IEDs which do not fall in the purview of the above two agencies, viz. Sub Area Commander, Army Headquarters, Secunderabad and Deputy Chief Controller of Explosives, Sultan bazar, Hyderabad, will be handled by the Bomb Disposal Team, CID, Hyderabad.

Note : In case the Investigating Officer is apprehensive of any danger in the seizure of bombs by themselves, he may requisition the services of Bomb Disposal Team officer for assistance in seizure whether such officer is located in the District headquarter or from CID or Intelligence and Security.

Role of Police Officers dealing with unexploded bombs (UXB)

19. As soon as the materials suspected to live Bombs or IEDs or components/constituents used for making Bombs and IEDs are recovered/seized, the Investigating Officers should record in detail, the list of items with full description, category-wise in Form 60.

20. Unexploded country made bombs (UXBs) made in soda-water bottles, jam tins, water cistern floats, chatties, coconut shells, bundles of jute, hemp or cloth, or bamboo tubes, book bombs and letter bombs may be designed to explode.

A. When moved in any way,

B. When turned over,

C. When placed in water.

D. When thrown down.

E. When a fuse is lighted.

F. By a clockwork arrangement, or

G. By Chemical reaction.

Before touching the bomb, examine it where it lies and see if you can detect the arrangement for exploding it. See if there is any trigger and, if so, whether it is set or not. Do not move the bomb unless you are satisfied that it is safe to do so. However, if the Police Officer is satisfied that there is no danger in its removal, then the bomb should be sent to the Inspector of Explosives by hand, packed according to the instructions contained in the booklet "Hand book of Forensic Science for Police Officers, published by Andhra Pradesh Police Academy". If the Investigating Officer is not satisfied, then a guard should be placed over the bomb and report to the senior officer and send telegrams immediately to the Chief Controller of Explosives, Nagpur as well as to the Deputy and Controller of Explosives, Sultan Bazar, Hyderabad or Bomb Disposal Squad asking for assistance to render it safe.

21. The Investigating Officer shall give requisition for diffusion of bombs and IEDs to the Bomb Disposal Team attached to CID, care of Addl. DGP, CID. All the samples collected by the Bomb Disposal Team officer should be handed over to the Investigating Officer for further transmission to the FSL/RFSL through the concerned Court/SDPO along with the letter of advice and the Bomb Disposal Team officer's findings in the form of report. Similarly whenever explosives are seized they should be sent through concerned Court/Police Officer of the

rank of SDPO and above. Under no circumstance, live bombs and explosives should be sent to FSL.

22. In all cases of explosions the Investigating Officer should collect the residual explosion materials from the scene of crime. The Bomb Disposal Team Officers should be called to the scene of crime if any live bombs are suspected to be present even after explosion. In sensational and important cases, scientific personnel of FSL and local scientific personnel of the Investigating Team should be requisitioned immediately for physical inspection and for assessment of the damage, risk potential and the nature of explosion. The experts, who inspect the scene of explosion, will be in a position to collect relevant material for chemical analysis as well as make an in-depth study of the damage and risk assessment.

23. The Investigating Officers while dealing with scenes of explosion should photograph and videograph the entire scene covering the surrounding areas and all portions of the scene. An overall sketch of the scene should be prepared describing the specific details of damages caused by the explosion including damages to the neighbouring areas. The weather and atmospheric conditions at the time of explosion should be recorded. Statements of eye witnesses in respect of time of explosion, sounds heard, colour and height of the flame and smoke observed, smell noticed etc., should be ascertained and recorded.

24. After removing the debris, the Investigating officer should search for possible source materials responsible for the explosion. At this stage they should also look for any craters caused due to explosion by carefully removing the debris. If a crater is found, its photograph should invariably be taken and forwarded to FSL along with the physical dimensions of the crater properly measured using measuring tape, depth gauge etc. The type of the floor, where the crater occurred should be described such as loose soil, concrete, stone slabs, BT road etc.

25. Other information such as the type of electrical connections, inflammable materials found at the scene, nature of activity carried out in the premises and the surrounding areas and any other relevant information leading to the cause of explosion should be furnished in order to properly identify the cause of explosion and risk assessment. All the above records, photographs, video tapes, sketches, notes, data, information would enable the scientific expert to arrive at the nature of explosion and the approximate quantity of explosive material that could have caused the explosion. The investigating officer will forward the materials seized from the scene of explosion to FSL through Court/ SDPO. These samples should be dispatched through a messenger along with letter of advice, seizure record and other related documents.

26. In case the risk potential assessment is required in major explosions, the Investigating Officer should forward full details of the remnants of materials seized along with photographs of the scene of explosion. Any opinion regarding the cause of explosion, seat of explosion, quantity of explosive materials responsible for causing the explosion etc., can be offered by FSL only when a video tape, colour photographs and full description of the materials seized and the damages occurred are sent.

Role of Bomb Disposal Team:

27. The Bomb Disposal Team (BDT) is responsible for diffusion and disposal of live Bombs/Explosives seized all over the state of Andhra Pradesh.

A. Whenever, a requisition is received either in the form of a radio message or a letter, the Bomb Disposal Team attached to CID or other Organizations and Districts shall proceed to the place of seizure and follow the instructions contained herein.

B. On reaching the spot, the BDT officer should commence the work on the basis of the authorisation from the Court/SDPO obtained by the IO by way of a letter or an endorsement on the Property Seizure Report Form 66 of AP Police Manual. A copy of the authorisation letter/endorsement should be retained by the BDT officer in his file for record.

C. Having been authorised by the relevant authority the BDT officers concerned should proceed for preliminary inspection of the materials.

D. An overall survey of the material seized should be done for identification of the nature of material. During this exercise, he should be able to make a preliminary assessment of nature and potential of the bombs, which would ultimately be useful in the selection of proper method for diffusion and destruction/disposal of bombs.

E. He should verify the seals, labels and signatures of witnesses in whose presence the materials were recovered by the IO and record discrepancy, if any, in his files.

F. He should carefully check the seized container and the contents thereof and verify that they tally with the description given in the property seizure form. The description should also indicate the size, shape, color and other physical details such as visual appearance etc., of the materials.

G. He should maintain a separate record of all the observations in his file. Having satisfied that the materials, inspected by him are tallying with the seizure report, he should decide the method of diffusion.

H. Diffusion should invariably be done strictly in accordance with the safety and security precautions. Different category of explosives requires different types of diffusion procedures. In this connection the standard procedures laid down for safe handling, diffusion, destruction and disposal of explosives should be carefully followed.

I. The next step is collection of samples to know the chemical composition and assessing risk potential of the bombs. The BDT officer should broadly categorize the seized materials before collection of representative samples. The purpose of sampling materials is for chemical analysis. By chemical analysis, chemical composition of material seized can be ascertained. The physical description of each category of bomb such as size, shape, volume, weight and quantity/ number is essential for assessment of the risk potential. The BDT officer should obtain a videograph/photograph of the entire seized material preferably at the place of seizure (except in cases where the material is suspected to be vulnerable to flash light), for correct assessment of risk potential of the total quantity of material seized. The place, date and time of seizure should also be indicated.

J. In case of low explosives such as throw down bombs, gunpowder etc., a small quantity of the material of the size of medicinal capsule shall be collected after diffusion of each category of bombs and shall be packed in 5 –10 ml glass (injection) bottle filled with water, preferably distilled water. The bottle should then be properly sealed and labeled with the signatures of the BDT officer indicating Police station, Cr. No., Item No. etc.

K. In case of other components of bombs like threads, glass pieces, nails, stones, paper pieces etc., a representative sample shall be forwarded to FSL for opinion.

L. In case of bombs containing high explosives such as grenades, tin bombs, claymore mines, land mines, pipe bombs etc., a representative sample of chemical substance shall be collected where diffusion is not possible, a residual portion of the explosive material may be sent for chemical analysis.

M. Bombs and IEDs made of high explosives are not required to be returned to the court for presentation during trial. The reason for such exceptional treatment is on account of public safety, as they are likely to explode even after diffusion under certain circumstances.

N. In all cases of high explosives, the Bomb Disposal Team officer should destroy the materials at a safe and convenient place in the local area following all the rules, regulations, precautions, procedures and

practices given in the Explosives Act, Explosive Substances Act, Explosives Rules, and as per laid down standard procedures. A certificate to this effect has to be given to the requisition authority by the Bomb Disposal Team Officer.

O. In case of throw down type bombs or similar bombs made of low explosives, after diffusion and sampling, the remaining portions of the bombs such as sharpnels, threads, paper etc., should be sent to the court after thoroughly washing out the chemical rendering them harmless. Such material should be submitted to the court in the original container in which it was seized after carefully packing, sealing and labeling for subsequent identification.

572. Quick Check List for the Investigating Officers to ascertain what type of samples to be collected in different types of crimes and which section of FSL handles the analysis

SI No.	Section APFSL	Type of Physical Evidence	Type Crime
1.	Biology	Hair, Fibres, Diatoms, Tobacco products, other plant materials like Pollen, Leaves, Wood, Seeds, Fruits, Flowers etc., and insects such as Maggots, Flies.	Rape, Murder, Suicide, Drowning and Cheating.
2.	Bio-Medical	Skull, Skeletal remains, skin and Tissues, photographs.	Suicide and Murder.
3.	DNA	Liquid blood, Bloodstains & Swabs, Semen, Seminal Stains & Swabs, Tissues, Bones, Hair, Teeth, Saliva, Skeletal remains.	Rape, Murder, Disputed paternity and Swapping of new born babies.
4.	Serology	Blood, Semen, Saliva, Other body fluids, Skin tissues etc.	Rape, Murder and Assault.
5.	Chemistry	Adulterated Petrol, High-speed diesel, lubricating oils etc., Detergents, Cosmetics, Cement, etc., Explosive materials, Arson & Fire residues. Acid burning residues, unknown chemicals, remnants of Mechanical Explosions, Chemical Explosions.	Explosive cases, Accidents, Arson, Acid Burning and Burning Cases.
6.	Narcotics	Plants and plant products containing Narcotics and Psychotropic Substances, Adulterated Liquor/Toddy.	Cheating, NDPS Act and Central Excise cases.

7.	Toxicology	Poisonous / Intoxicating Substances like Alcohol and Drugs.	Suicide, Murder and Accident.
8.	Computer Forensics	Software, Hardware, Computer Peripherals, Communication devices, Computer Products related materials such as computer Fake currency, Pornography, Software piracy, Unauthorized Reproduction.	Cheating, Counterfeiting and Computer related crimes.
9.	Documents	Handwritings, Erasures, Obliterations, Alterations, Over writings, Secret writings etc., Typewriting, Printed matter, Inks & Paper, Stamp impressions, Fax, Carbon Copies, Xerox Copies.	Cheating, Forgery misappropriation, Murder, Suicide, Scams and Frauds.
10.	Polygraph-Lie Detector	Suspects,witnesses or Complainants.	Burglary, Dacoity, Theft, Arson, Rape, Murder and White collar offences.
11.	Ballistics	Firearms, Parts of firearms, Cartridge cases, Bullets, pellets/wads, clothes and other materials affected by firing.	Murder, Assault, Suicide, Attempt to Murder and Dacoity.
12.	Physics	Glass Pieces and fragments, Paint flakes, chips and smears, Foot prints, Tyre impressions, Tool marks, Counterfeit currency, Erased numbers on vehicles and other valuable gadgets, Spurious articles, Voice analysis.	Cheating, Burglary, Accident, Murder and Hit & Run cases.
13.	Forensic Engineering	Materials recovered in construction of buildings, roads, dams & Road, Train or Air Accidents, Failures of machines and structures.	Fraud, Cheating, Misappropriation and Criminal Negligence.

CHAPTER - 32

Prosecution of Cases

Directorate of Prosecutions

G.O. Ms. No. 323 Home (Courts C) Dept., dated 26.5.1986 of AP

G.O. Ms. No. 188 Home (Courts C) Dept., dt. 30.3.1992 of AP

573-1. The Directorate of Prosecutions was established with the objective of improving the quality of prosecutions, exercise supervision and scrutiny of the work of Prosecutors and brings about uniformity throughout the State. Sections 24, 25 of Cr. PC lay down that where a regular cadre of prosecutors exist, they are empowered to conduct prosecutions in the Sessions, Additional Sessions, Assistant Sessions and Magistrates' Courts. The Directorate at various levels besides conducting prosecutions in all criminal cases is also to tender legal advice to the DGP, other supervisory officers and Investigating Officers. They are also, in addition authorized to conduct prosecutions and tender legal advice to other departments. The Directorate functions under the general control of the Government and is headed by a Director of Prosecutions (Sec.25 A Cr.PC)

2. The head of the Directorate of Prosecutions is the Director assisted by an Additional Director at the Headquarters. For each of the seven zones in the State a joint Director is to be in-charge, while for each district a Deputy Director is to be posted. These officers have functions and responsibilities to supervise the work of prosecutors within their jurisdictions and report to the Director.

3. The cadre of prosecutors consist of the following seven categories :

A. Category-1: Director of Prosecutions

B. Category-2: Additional Director of Prosecutions

C. Category-3: Public Prosecutor/Joint Director of Prosecutions

D. Category-4: Additional Public Prosecutor, Grade-I / Deputy Director of Prosecutions.

E. Category-5: Additional Public Prosecutor, Grade-II

F. Category-6: Senior Assistant Public Prosecutor

G. Category-7: Assistant Public Prosecutor

G.O.Ms. No.187, Law (C) Dept., Govt.of A.P. dt. 6-12-2000 of AP

4. The recruitment, training, promotions and other service conditions are governed by AP State Prosecution Service Rules 1992 in so far as cadre public prosecutors are concerned. There is direct recruitment

at the level of APP and 30% of Additional PP. The rest of the posts are filled by promotion or deputation, if qualified candidates are not available for promotion. Except the designated prosecutors at High Court, all other prosecutors are to be from the cadre. Special PPs from the Bar are appointed for specific cases or group of cases or courts including the High Court. The services of the prosecutors appointed directly from the bar for tenure are governed by Law Officers' Service (Appointment and conditions of service) instructions, 2000. The prosecutors of all levels are governed by the AP Civil Services Conduct Rules 1964 and AP CC&A Rules 1991.

5. The Prosecutors tender Legal Advices to Police Department at various levels and are expected to do so in the manner and form prescribed. All the Prosecutors are to be paid a Robe Allowance once in 5 years and Legal Consultation Allowance at such rates as determined from time to time.

A. The prosecutors are designated as Legal Advisors to the SsP and other Departments in the Districts. The prosecutors of the rank of Addl. PPs Grade I/ Deputy Director are also declared as unit Officers at District level who are delegated with the Administrate Power.

Being Legal Adviser to the Commissioner of Police / Superintendent of Police and to other Departments, the Deputy Director shall be available to the Collector / Commissioner of Police / Superintendent concerned , whenever, their services are required. In crime meetings with the Commissioner of Police / Superintendent of police, he shall appraise the progress of important cases and about the need of filing of charge sheets after taking prior scrutiny of the prosecutor of the court concerned, as it help the prosecutor for the smooth conduct of prosecution.

(G.O.Ms. No.125 Law (LA&J - Home – Courts A2) Department dt. 24.09.2013, of Government of AP).

B. The DGP Office has directed all SsP/CsP to provide Office accommodation to the Addl. PP Grade –I/ Dy. Director-cum- Legal Advisor to SsP/ CsP in the District Police/ Commissioner Office premises.

(Chief Office memo Rc. No. 08/M3/2014 Dt: 12.01.2014).

Liability of Prosecutor and Investigating Officer :

In *State of Gujarat Vs Kishan Bai* in Criminal appeal No. 1485 of 2008, dt: 07.01.2014, the Hon'ble Supreme Court said that …. "every acquittal should be understood as a failure of justice delivery system,

in serving the cause of Justice. Every state should put in place a procedural mechanism to review all acquittals and each erring Officer must suffer the consequences of his lapse by appropriate departmental action, whenever called for. Both the Investigating Officer and the Prosecutor are accountable.

The functions and duties of the Prosecutors

6. There should be constant interaction between Investigating Officers and Prosecutors right from the initial stage. There should be no hesitation for the IO to seek the advice of the APP on collection and appreciation of evidence. The APPs have instructions to render proper legal advice whenever sought for by the police. The duties of prosecutors are 3-fold.

A. To tender legal advice during investigation for proper construction of case records that helps prosecution in the court subsequently;

B. Diligently conduct prosecution in courts.

C. Offer opinion on judgements.

Duties of Public Prosecutors and Addl. Public Prosecutors

Grade I and II

DOP Memo No 122/A2/ 93, dated 19.3.1993.

7 A. Offering legal advices to the I.Os in sessions cases at the stage of the investigation when sought for, and giving draft charge sheets in session cases.

B. Conduct of prosecutions before the District and Sessions Court, Addl. District and Sessions Court and Assistant Sessions Court respectively to which they are Appointed / posted.

C. Ensure that the witnesses are presented before the court as per the schedule of the cases.

D. prepare the arguments of cases by projecting the prosecution case citing latest case laws relevant to the facts for successful prosecution;

DG & IGP Circular Memo No. 855 /A2/DOP/ 91, dated 27.8.1991.

E. bring to the notice of the SP/CP the non-production and absence of witnesses after service of summons;

F. ensure that the summons to official witnesses and IOs are obtained in time and served to avoid any delay to the regular conduct of prosecution by seeking any adjournments;

G. Keeping in possession all copies of documents that are filed in court in original for ready reference during the trials;

H. receive notices of Appeals and Bails and in turn intimate the same to the concerned SHO/IO in writing and obtain CD files to get necessary instructions to handle the bail applications and also to argue the appeals filed against convictions.

DOP Memo No. 242/B2/89, dated 28.7.1989.

I. soon after the receipt of judgement copy under Rule 100(1) ix of Criminal Rules of Practice and where there are acquittals and inadequate sentences passed and where there exist good grounds for Appeal and Revision, advise the SP/CP accordingly by furnishing details and specific reasons.

DOP Memo No. 1323/ A2/DOP/91 dated 5.12.1991.

J. attend the review meetings of the Director/Joint Director Prosecution.

DG & IGP Circular Memo No. 855/A2/91, dated 27.8.1991.

K. attend the meeting at request of the CP/Addl. CP/Jt.CP/DCP, Zonal IG/DIG/SP without prejudice to the court work. Such meetings should be held by the officers on Saturdays or Sundays or Court holidays.

L. tender legal advice in writing within a week on cases referred to him by SP/Addl. SP after perusal of concerned records and discussions with officials if he considers it necessary.

Duties of Senior Asst. PP and Assistant PP

8-A. Conduct the prosecution in the cases filed by the Police and takes every possible legal action for successful prosecution of cases in public interest;

B. give his written opinion or/and advice after perusal of the case diary and connected records and discussion with concerned IO and officials if necessary, the opinion should be sent in form 68 within a week after receipt of the CD file and report of IO in form 67.

C. prepare draft charge sheets in the cases referred to him in B above after satisfying himself that the material available on record warrants a charge sheet. The charge sheet should be based on evidence against each accused with applicable sections of law in respect of each. If further probe or investigation is needed it should be informed in writing to the IO. The report in form 68 should be sent only after replies to his comments or further probe is completed. The instructions to the Police in Order No. 479 (5) of Chapter 28 and other orders in that Chapter and in this Manual may be kept in mind.

D. be responsible and vigilant in giving legal advice/opinion/draft charge sheet so as to avoid future complaints of negligence and irresponsible attitude;

E. oppose the bail applications after receiving necessary instructions that may be given by the concerned officials;

F. ensure that the witnesses attend the court as per schedule and NBWs are executed well in time by issuing suitable instructions to the concerned in writing. In case the concerned officer does not respond, the matter be reported to the SP/SDPO concerned under intimation to the Directorate;

G. report to the SP/Addl./Jt. CP under intimation to Director of Prosecutions in case there is no proper attendance in court by the concerned official and lack of interest in production of witnesses before the trial court;

H. discuss the priority of old cases pending prosecution in consultation with SHO/officials concerned and get the cases expedited in the court;

I. maintain cordial relationship with the court, police, and members of the Bar;

J. act in a fair and impartial manner in discharge of duties towards court, police and other departments;

K. assist the court with his fairly considered view as the court is entitled to have the benefit of prosecuting officers specialized expositions;

L. take all necessary legal steps to ensure that the court does not close the cases on account of non-production of witnesses;

M. consult the senior prosecuting officer and seek advice on cases involving legal complications/expertise;

N. Attend the meetings held by the Director, Joint Director and Deputy Director;

O. Attend at request on non-court working days the review/crime meetings held by the Zonal Inspector General/DIGP and SP whenever convened and furnish the required information, appraise the problems faced in the conduct of prosecution or securing attendance of witnesses to the court;

DOP Circular Memo No. 145/A2/91, dt. 6-9-1991.

P. render timely advice to the Superintendent of Police after perusing the certified copy of judgements whether there is a fit case to prefer an appeal, while furnishing detailed reasons recorded against acquittal or insufficiency of sentence.

Duties of Deputy Director

9 A. tender legal advice to the SP/CP and other departments of the Districts;

B. inspect and supervise offices of Additional Public Prosecutors Grade-II and other subordinate Prosecuting Officers in the District;

C. advise in the matter of Revisions and Appeals against the decisions of Magistrate Courts.

Duties of Joint Director

10A. Tender legal advice to the zonal IG/DIG/ CP.

B. inspect and supervise offices of Additional Public Prosecutor Grade-I, Deputy Directors of Prosecutions and other subordinate Prosecuting Officers within jurisdiction;

C. advise in the matter of preferring appeals and revisions against the decisions of Additional Sessions and Assistant Sessions Courts.

Duties of Additional Director

11-A.Oversee the supervision of prosecution zone wise in the State;

B. inspecting and supervising officer for Public Prosecutors and Joint Directors of Prosecutions and other subordinate Prosecuting Officers within the State;

C. advise the Government in the matter of preferring Appeals and revisions against the decision of Sessions Courts falling within jurisdiction;

Duties of Director of Prosecution

12-A.He is the Head of the State Prosecution Department and tenders legal advice to the Director General of Police and other Government Departments;

B. He shall liaise with the office of the Advocate General and Public Prosecutor of the High Court and advise the State Government in the matter of preferring appeals against the decisions of the High Court to a larger bench of the High Court or the Supreme Court;

C. He shall be the controlling officer for the Department and also exercise all residuary powers of the Department not specified elsewhere;

D. He shall be the supervising and inspecting officer for all the offices of the department and competent to issue administrative instructions and initiate appropriate administrative action as deem fit for effective discharge of their duties by all Prosecutors under his control

Commencement of Prosecution

574. Trial of a case commences after cognizance is taken with hearing for framing charges by the Magistrate or the Sessions Judge (Sections 190, 193, 207, 226, 228 and 240 Cr. PC). When the case is posted for examination of witnesses, the court should be requested for summons after consulting the Prosecutor. It should be ensured that the number of witnesses is limited only to those who can be examined and avoid number of officers of the same department being summoned on a particular day. The summons obtained or issued should be served and the served copy of the summons returned to the court well in advance.

Examination of witnesses in Court

575-1. The handling of witnesses in Court calls for an attitude and technique different to that employed in the interrogation of persons during an investigation. While the investigator seeks to discover the author of a crime and the manner of its perpetration, the prosecutor aims at establishing the guilt of the person known to be the offender as the result of the investigation. The IO has an important role to play even though the Prosecutor is responsible for proper prosecution of the case.

2. It must not be the prosecutor's object to secure the conviction of accused persons by any means. His true function is to thoroughly study the case, marshal the facts and to assist the Court in administering justice on the basis of admissible legal evidence and placing before the court all evidence, circumstantial and oral in a cogent manner, and help the court to interpret the evidence in the light of appropriate case law. It is certainly the duty of the Prosecutor to ensure prompt trial and not concede for too many adjournments, or to ask for adjournments himself without a cause.

3. Examination of witnesses in Court is governed by the provisions of the Indian Evidence Act. The party that calls him first examines a witness. This is called his examination-in-chief. The opposite party is then entitled to cross-examine him, after which he may be re-examined by the party calling him, if it so desires.

4. Examination and cross-examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified in his examination-in-chief. The re-examination should be directed only to the explanation of matters referred to in the cross-examination. If, however, any new matter is, by the permission of the Court, introduced in the re-examination, the opposite party may further cross-examine the witness on that point.

5. It is essential that the IO produces witnesses in advance so that prosecutor prepares his witnesses before the trial begins.The witnesses have several psychological barriers and complexes including fear, apart from ignorance of court proceedings or Law. The preparation should consist of giving confidence to him, refreshing the memory of each witness and in instructing him as to how he should behave in Court and answer questions that may be put to him by the defence lawyer in cross-examination. He should be cautioned to keep his temper, to answer questions clearly and in natural manner, and not to volunteer more information than is asked of him. A timid or nervous witness would need encouragement, while a self-opinionated, loquacious one, must be cautioned against making his answers unnecessarily long or speaking about matters on which he has not been questioned.

6. During his preliminary interview, the prosecutor must make it a point to cross-examine his witnesses. This would help them to face the defence lawyer's cross-examination in the Court, with confidence.

7. There should, however, be no attempt to tutor witnesses. A tutored witness is apt to perjure himself in Court and damage even a good and true case. But, if the memory of witness is refreshed, that will advance the cause of justice. It is emphasized that this will largely depend on the Investigating Officers having recorded statements truthfully, in the language of the witnesses.

8. The prosecutor must not produce in Court more witnesses than are actually essential to prove his case. No particular number of witnesses is required for the proof of any fact (section 134 of the Evidence Act). It is the quality and not the quantity that matters.

9. After a prosecution witness has entered the box, the very first thing that the prosecutor should do is to put him at ease. It must be realized that few persons will be free from flurry when figuring as a witness in Court. It is, therefore, essential that the prosecutor should create confidence in his witness by his demeanour, by the form in which he frames his questions and by the manner in which he asks them. His tone should be modulated and re-assuring. The witness should, as a rule, be permitted to tell his own story, but the prosecutor should make sure that all important facts are clearly brought out. He should avoid technical terms as well as difficult and high sounding words.

10. The prosecutor should handle his witnesses according to their nature. An over-zealous, garrulous witness for example, should never be allowed to tell his own story, for, by so doing, he is likely to expose himself to severe cross-examination. The effort should be to keep such a witness well to the point and compel him merely to answer the

questions that are put to him. A stupid or timid witness will require great patience and good humour. Any display of anger only adds to his confusion.

11. It is a rule of evidence that no leading question should be put to a witness in the examination-in-chief, except with the permission of the Court. This does not apply to matters which are introductory or undisputed or which have been already sufficiently proved (section 142 of the Evidence Act). In fact, questions in respect of introductory and undisputed matters are best asked in the form of leading questions, as it will expedite the trial and tend to infuse confidence in the witness. Thus, instead of asking "what is your name?", "where do you live?", "What is your business?", etc., it is admissible to ask "Mr. A, you are a teacher in an elementary school in the village B?" and so on. When, however, the main issues of the case are reached, the rule against leading questions should be strictly adhered to, though, in exceptional cases, when ordinary questions have failed to elicit a detail, the Court may permit the lawyer to lead the witness to the extent necessary to make him recall the point omitted.

12. When a witness shows himself to be opposed to the side which has called him or adopts an attitude contrary to the truth, the Court may, in its discretion, permit the side to treat him as a hostile witness and cross-examine him (section 154 of the Evidence Act). But this permission will not be lightly given. The general attitude of the witness and his demeanour, and the trend of his evidence as a whole must indicate his hostility to his side or desire to conceal the truth. If the Court gives the permission, the side that called him may cross-examine him and put him questions to contradict him and impeach his credit.

13. The prosecutor must closely follow the cross-examination of his witness by defence, as that would often enable him to discover the accused's line of defence. He must take exception in time, to any improper or irrelevant questions that might be put by the defence counsel.

14. If the prosecutor finds that any of his witnesses has been made to give any misleading statement or that any point has been purposely left obscure, he should have it clarified in re-examination.

15. After the examination of his witnesses is completed, the Prosecutor has to prepare himself for the cross-examination of defence witnesses to rebut effectively the evidence tendered for defence in examination-in-chief. This may be achieved by impeaching the credibility of the witness or his testimony with the material facts or information available in prosecution. Leading questions are permissible in cross-examination.

16. There is a marked distinction between discrediting the testimony and discrediting the witness. The method of cross-examination in the two instances would naturally be very different.

17. The testimony of a witness may be impeached by showing the scanty means he had for obtaining the correct knowledge of the facts spoken to by him or by showing that, though he had the best possible opportunity, he did not have the intelligence necessary to observe them correctly or the power of memory required to retain them so long. Again, two persons may witness an occurrence but give inconsistent versions of what they observed. Further, many persons enrich their personal experiences with the fabrications of their imagination or with what they have heard from others. It is one of the objects of cross-examination to separate fact from imagination and the personal observation of the witness from that of others.

18. The credit of a witness may be impeached :

A. by the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;

B. by proof that the witness has been bribed, has accepted the offer of a bribe or has received any other corrupt inducement to give his evidence;

19. It is not necessary to cross-examine every witness. When the prosecutor rises to cross-examine a witness, he should first ask himself the questions. “Has the witness testified to anything that is materially against him? Is it necessary to cross-examine him at all? The cross-examination of a witness, when it is not really necessary, may go to elicit certain facts which are favourable to the opposite party.

20. Making much of trifling discrepancies should, for the same reason, be avoided.

21. The cross-examiner must be clear in his mind of his line of cross-examination and the facts he wants to elicit. Fishing questions are very apt to elicit wrong answers.

22. A skilful cross-examiner seldom takes his eyes from an important witness, while he is being examined by his adversary. His bearing, his manner of expressing himself, his movement of hands all help any intelligent and experienced observer to arrive at an accurate estimate of his integrity. During the examination-in-chief of a defence witness, the prosecutor should always be on the alert for an opening for his cross-examination and should try to detect the vulnerable spots in his narrative.

23. Bullying or threatening the witness seldom pays. It will often make the witness mentally defy the cross-examiner at once. If, on the other hand, the prosecutor's manner is courteous and conciliatory, the witness will soon lose the fear, witnesses generally have of the cross-examiner and can almost imperceptibly be induced into revealing true facts.

24. The mistakes of a witness should be drawn out more often by inference than by direct questioning, because all witnesses have a dread of self-contradiction. The loquacious witness should be allowed to talk on, and he will be sure to involve himself in difficulties. He should be encouraged and led by degrees into exaggeration that will conflict with common sense.

25. The down-right liar should be encouraged to exaggerate the way he thinks the prosecutor does not want him to. He will soon be found stretching his imagination to such an extent that nobody will believe a word of what he says.

26. If the manner of the witness and the wording of his testimony bear the marks of fabrication, it is often useful to ask him to repeat his story. He will usually repeat it in almost identically the same words as before, showing that he has learnt it by heart. Of course, it is possible, though not probable, that he has done this and is still telling the truth. An examiner should then test him by taking him in the middle of his story and jumping him quickly to the beginning and then to the end of it. If he is speaking by memorizing the version, he will be sure to succumb to this method.

27. If the prosecutor obtains any favourable answer from a witness, he should leave it there and pass quickly to some other question. The inexperienced examiner who repeats the questions, with the idea of impressing the answer upon his hearers, will have to blame himself if the witness corrects or modifies his answer.

Public Prosecutors and Assistant Public Prosecutors :

576-1. The Public Prosecutor appears for the State and conducts prosecution in all Sessions cases, contests bail applications, and argues appeals and criminal miscellaneous petitions in the Sessions Court and gives advice on legal matters. The organization and functions of Directorate of Prosecutions and all procedures is given in Order No. 573.

2. In a case in which the services of legal advice of PP, Addl. PP or APP is sought the IO should send the case diary file along with a report as indicated in Order No. 573 in advance to him and also give him the necessary personal briefing before commencement of trial. He should personally attend Court on all dates of hearing invariably

unless he is held up on any other urgent duty, in which case one of the ASI, or HCs who assisted in investigation or specifically nominated to follow up a case in the court should be sent to Court with the case diary in time to meet the Assistant Public Prosecutor. The investigating officer should assist the Assistant Public Prosecutor in briefing witnesses, conducting the prosecution, filing documents and exhibiting the various items of property, and see that the prosecution case is presented in the best possible manner. He must also make enquiries and furnish material to the Prosecutor for the cross-examination of defence witnesses.

3. Security proceeding cases must be conducted in the Executive Magistrate's Courts invariably by an Officer not below the rank of Inspector and who is not the I.O. in that case. They may, if necessary, requisition the services of APPs in important cases.

4. When a case of serious rioting or important murder or dacoity or any other case of public importance is under trial, the Superintendent of Police and the Sub-Divisional Police Officer should keep themselves in touch with the progress of the case and take personal interest in proper conduct of its prosecution by helping the PP with all available evidence.

Privilege in respect of official records

UO Note 6929/58-1, dated 14-4-1958 of Law Dept.

577. The Government have issued instructions regarding the procedure to be adopted when a Government servant is summoned by a Court to produce official documents for the purposes of giving evidence:

1. The law relating to the production of unpublished official records as evidence in courts is contained in sections 123, 124 and 162 of the Indian Evidence Act. The pronouncements of the Apex Court and AP High Court should be borne in mind while dealing with this matter.

2-A. For the purposes of section 123, the expression "Officer at the head of the department" means the Minister in charge or the Secretary to Government concerned (*AIR 1961 SC 493*). Before claiming privilege, the head of the department should examine the relevant document carefully and his affidavit should contain an indication as to the nature of the document, as to why privilege is claimed, what injury to public interest is apprehended by its disclosure or what affairs of State are involved. A bare statement by the head of the department that, in his opinion, the disclosure would be against public interests is not enough. He should indicate the nature of the suggested injury to the public interest, and also put in a statement saying that he has considered the

document carefully and has come to the conclusion that it cannot be produced without injury to public interest.

B. The mere fact that the officer as the head of the department does not wish the documents to be produced is not an adequate justification for taking objection to their production. Production of documents should be withheld only when the public interest would, by their disclosure, be injured, or where disclosure would be injurious to national defence or to good diplomatic relations or where the practice of keeping a class of documents secret is necessary for the proper functioning of the public service. Privilege is not to be claimed on the mere ground that the documents are State documents or are official or marked confidential or, that their disclosure, would result in Parliamentary discussion of public criticism or would expose inefficiency in the administration or tend to lay a particular department of the Government open to a claim for compensation.

C. It has been held that, it is desirable, but not indispensable, that the records should be sent in a sealed cover through an officer of the department claiming privilege and that the statement of the head of the department would be considered conclusive and the privilege be upheld, except for compelling reasons to the contrary. Hence, the appropriate working principle under section 123 is to produce the records in question, in a sealed cover and raise the claim of privilege, setting out the grounds in an affidavit in Form I appended to this Order.

D. A public servant other than head of the department, who is summoned to produce an official document, should first determine whether the document is in his custody and he is in a position to produce it. In this connection, it may be stated that all official records are deemed in the custody of the head of the department and it is only under special circumstances that an official document can be said to be in the custody of an individual public servant. If the document is not in the custody of the public servant summoned, he should inform the court accordingly. If, under any special circumstances, the document is in the custody of the public servant summoned, he should next determine whether the document is an unpublished official record relating to affairs of State and whether privilege under section 123 should be claimed in respect of it. If he is of the view that such privilege should be claimed or even if he is doubtful of the position, he should refer the matter to the head of the department who will issue necessary instructions and will also furnish the affidavit in Form- 1. The public servant, who is to attend a Court as a witness with official document, should where permission under section 123 has been withheld, be given an affidavit in Form I, duly signed by the head of the department. He should

produce it when he is called upon to give his evidence and should explain that he is not at liberty to produce the documents before the court, or to give any evidence derived there from. He should, however, take with him in a sealed cover the papers which he has been summoned to produce.

3-A. A public servant who is summoned to produce an official communication which is made to him in official confidence should first determine whether the public interest would suffer by its disclosure. He shall not be compelled, if he considers it so, he should claim privilege under section 124 in Form II appended to this order. In case of doubt, he should seek the advice of the head of the department. When he is not attending the court himself to give evidence, he shall have the claim of privilege in Form II sent to the court along with the document. The person, through whom the document is sent to the court, should submit the affidavit to the court when called upon to produce, the document. He should take with him the document which he has been called upon to produce but should not hand it over to the court unless the court directs him to do so. In such a case, privilege should be claimed under section 124 and the document should not be shown to the opposite party, nor should it be marked as exhibit in any proceedings. If the document is not in his custody, he should inform the court accordingly.

B. The basic principle for deciding whether a particular document is a communication made in official confidence to a public officer or not, is whether the document produced or the statement made was under the process of law or not. If the former is the case, it would be difficult to say that a document produced or statement made under the process of law is a communication made in official confidence. The question whether a communication was made in official confidence is for the court to decide.

4. The legal position with regard to section 162, as enunciated by the Andhra Pradesh High Court, is given as, "It is obligatory for a person who has been summoned to produce a document in his possession or control to bring it into Court even if there is any objection to its production or to its being admitted in evidence under section 123 or 124 of the Evidence Act. The court will decide on the validity of his objection and he is not entitled to withhold the evidence if the objection is overruled".

FORM -I

AFFIDAVIT IN RESPECT OF A CLAIM OF PRIVILEGE UNDER SECTION 123 I.E. ACT IN THE COURT OF .....

Writ Petition No./Suit No. …… of 20…….

I, …… (name, designation and address of the person making the affidavit), do hereby solemnly affirm and state as follows:

A summons bearing No. …… dated …… issued by the Court …… in writ Petition/Suit No. …… of 2001, (…… vs ……), has been received on …… ., requiring the production in the said Court on …….., of document stated below. I as the head of the department, am in control of, and in-charge of, its records. I have carefully considered them and have come to the conclusion that they are unpublished official records relating to affairs of State and their disclosure will be prejudicial to public interest for the following reasons:

LIST OF DOCUMENTS SUMMONED

I do not, therefore, give permission to anyone under section 123 of the Indian Evidence Act, 1872, to produce the said documents for inspection or to give any evidence derived there from.

Solemnly affirmed at …..… this …… day of …….… 2015

Name and designation of the

person making the affidavit.

FORM - II

AFFIDAVIT IN RESPECT OF A CLAIM OF PRIVILEGE UNDER SECTION 124 of IEA

IN THE COURT OF ……..

Writ Petition No./Suit No. …… of 2001

I, …… (name, designation and address of the person making the affidavit), do hereby solemnly affirm and state as follows:

A summons bearing No. …… dated …… issued by the Court of …… in Writ Petition/Suit No. …… of 20…. (…… vs ……) has been served on me on ……., requiring the production in the said Court on ……... of the documents stated below. I have carefully considered them and have come to the conclusion that they

contain communications made in official confidence and I consider that the public interest would suffer by their disclosure for the following reasons:

LIST OF DOCUMENTS SUMMONED

I, therefore, claim privilege under section 124 of the Indian Evidence Act, 1872.

Solemnly affirmed at ..... etc., this ..... day of..... 20....

Signature and designation of the Officer

making the affidavit

Action on breach of a security bond :

578. When a person on a security of any kind is prosecuted for an offence involving a breach of the conditions of the bond, report in that regard should be made to the court in writing, so that it may, in the event of conviction order the confiscation of the security.

579. **Habitual cheat or professional swindler - production in Court**

When a habitual cheat or professional swindler is produced before court in a case of cheating under section 420 of the IPC, or when an old offender is prosecuted in a case of theft involving property worth less than Rs.250/- representation must be made to the Court against sanction of permission to compound the offence, on the ground that the accused is more a danger to the larger public than to the complainant in the case.

APPs shall remind the Court regarding declaration by sureties as per Sec. 441 A Cr. PC when they are standing surety to an accused person for his release on bail.

Delay in the Disposal of cases in Courts

580-1. Delay in the disposal of criminal cases are mainly caused by :

A. piecemeal examination, non-production or absence of witnesses including official witnesses and failure to hear the case, from day to day,

B. absence of police or prosecutor or witnesses on the day fixed for hearing,

C. Absence of accused on bail and non-production of accused from Jails,

D. Absence of defence counsel,

E. Frequent adjournments delaying tactics by the defence,

F. The posts of Magistrate being vacant,

G. Heavy schedule in a court,

2. Each one of these reasons/situations should be tackled by a quick and thorough appraisal of the reason or reasons for delayed trials by the prosecution and Investigating Officials particularly, SHO and concerned SDPO. In each case there will be only one or two reasons out of the above that hold up the trial. The specific reason should be tackled promptly effectively and by pursuing the matter vigorously at the level of the trial or higher courts. Closest understanding and cooperation is required between prosecution staff and the police. The SP, Dy. Director Prosecution, PP and Additional PPs should review individually and together all pending cases and launch an effective strategy. If, for example, the cases are not progressing due to heavy schedule the matter should be brought to notice of District and Sessions Judge. If any case is held up for appearance of official witness the SP should make all arrangements to see that he is produced. If there are stay orders arrangements must be made to get them vacated. If accused is absconding an all out drive should be launched to trace them. The monitoring of each case on trial is that of SP/Addl. SP and Dy. Director Prosecution concerned. In addition, SP/Addl. SP, DCP, SDPO, Inspector of Police shall have daily monitoring of service of summons or execution of warrants. The same shall be done by SP, SDPOs and SHOs.

3. Police Officers should be punctual in attending court. If the IO is unavoidably detained on any other important work, he should arrange to send the ASI or HC with the case diary to attend the court in time. There can generally be no excuse for the absence of prosecuting officers, as dates of hearing are fixed by courts in consultation with them and more or less a Prosecutor is earmarked for each court. Reasonable time should be allowed for service of summonses and Police Officers on their part should see that summonses are served on the witnesses and they appear in court on the date fixed for hearing in addition to returning the served summons to court well in advance or at least a day before that date. Action may also be taken under section 174 of the Indian Penal Code, against witnesses who fail to attend the court in spite of the service of summonses. Preference should always be given to committal work (section 193 Cr.PC) over other work. Pendency can be considerably reduced and disposal of cases expedited by cooperation with the magistracy. Police Officers

summoned as witnesses must attend and depose after proper preparation and consultation with the PP or APP. Absence from court on the day summoned should be taken serious note of by senior officers.

4. APP/PP should ensure that the period of limitation as envisaged in Sec. 468 Cr.PC is adhered to and suitably advise the concerned Police Officer. The period of limitations for the Court to take cognizance is:

(a) Six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

5. Similarly, Prosecution should advise the Police Officer regarding minimum period for which and under trial prisoner can be detained as per Sec. 436 A Cr.PC.

Pendency of cases with Magistrates :

581-1. It is the responsibility of the SHO and Inspector to take steps to obtain proceedings in all cases from Magistrates. While discussing pendency in courts with SDPOs during the monthly crime meeting, the Superintendent of Police will also ensure that all pending proceedings have been obtained from courts.

Disposal of petty cases

2. The pendency of petty cases has an overall adverse impact on law and order besides being a source of harassment of the accused. Almost all cases can be disposed off on the same day or next day as the procedure is extremely simple and generally they are all admission cases. The facility of compounding is also provided for traffic violations. The SHO of L&O Police Station and Traffic Police station should ensure production of accused where it is necessary or laid down and assist the courts in quick disposal.

3. The SP and DCP Traffic are responsible for laying down strict procedures for levying, collection and deposit of fine amounts in the traffic violations. The prescribed registers and records should be subjected to strict audit regularly, particularly from the point of view of adequacy of fines and their accounting.

Giving evidence in Court by Police Officers

582. The following are the guidelines to Police Officers for compliance :

1. Police Officers other than officers and men of the C.I.D, C.B.I., A.C.B, Intelligence Bureau and Vigilance Branch appearing in Courts in their official capacity shall be in their uniform.*(Rule 271 of Criminal Rules of Practice & Circular Orders).*
2. Always salute the court if in uniform. If in plain clothes, salute in Indian style with folded hands (Namaste) when entering and leaving the witness-box.
3. Be attentive, never fidget.
4. Be calm and dignified while giving evidence, so as to impress the court and the counsel favourably.
5. While giving evidence, look straight towards the court.
6. When questioned by the defence counsel, never turn towards the prosecution counsel.
7. Do not answer any question without understanding it. If the question is not clear enough to be understood, mention it and politely ask the counsel to repeat it in a simpler form.
8. Do not answer a question with a counter question.
9. If you do not remember any fact, say so at once, rather than attempt a random answer.
10. Never show irritation and do not be offended if the cross-examiner questions you in a way you do not like.
11. If questions are unnecessarily vexatious or obnoxious, represent the matter to the court and seek its protection. Never quarrel with the counsel.
12. Carefully distinguish between what you know personally and what you may have heard from others.
13. In answering a question, do not give unnecessary information, e.g., if asked whether the colour of a certain article is white, do not say "No, it is black", say simple "No" or "Yes".
14. If you consider that some of your answers require an explanation which the counsel failed to elicit, you may, when both the sides have completed their examination represent the matter to the court.
15. Remember that all that the court wants to ascertain is the guilt or innocence of the accused, and not the intelligence of the witness.
16. Give no more details regarding the source of your information than "From information received, I did this or that".
17. Avoid lengthy answers as they furnish more material for cross-examination. Your replies should be concise.

18. Do not leave the court without its permission.

19. Read the deposition carefully prior to putting your signature on the recorded deposition. If anything is recorded in the deposition which you have not deposed, bring it to the notice of the court and get it corrected by the court.

Withdrawal of cases - Procedure

G.O.ms.112 Home, 10-1-1950, Govt. Memo No. 233039 Prisons-III/ 51-3 Home 31-1-1952.

583-1. Section 321 Cr. PC lays down that the PP or APP may with the permission of court before the judgment is pronounced withdraw prosecution against any person in respect of one or more offences for which he is tried. Three requisites are laid down to make the withdrawal order by the court valid.

A. The application for withdrawal should be filed by PP/APP who is competent to make the application; i.e. he must be in charge of the case;

G.O.Ms.No. 1401, Home dt:7-4-1949

B. The application should get the consent of the court before which the case is pending. The prosecutor has to apply his mind before and the decision to withdraw should be bonafide. The sanction of Central Government is necessary in respect of cases relating to executive power of the Union Government, cases handled by CBI, cases in which Central Government funds or Central employees are involved.

G.O.Ms.No. 54, Law LA&J, Home Court-B) Dept, dt. 30-2-2000 of AP

2. The Government has issued the following guidelines regarding the procedure to be adopted for withdrawal of the case.

A. Cases of simple nature where the Superintendent of Police can initiate withdrawal shall mean summons cases as defined under section 2 (w) of the Cr.P.C. and cases that can be tried summarily under Chapter XXI of Cr.P.C.;

B. In all other cases it is only the District Collector and District Magistrate or the State Government that can initiate withdrawal of cases;

C. The District Collector and the District Magistrate should obtain approval of the Government before authorizing or directing the Public Prosecutor or the Assistant Public Prosecutor concerned to withdraw from the prosecution of any case triable by a court of Session;

D. The Superintendent of Police or the District Collector and the District Magistrate, as the case may be, shall obtain legal opinion of the Public

Prosecutor or the Assistant Public Prosecutor concerned before authorizing or directing any withdrawal from the prosecution;

E. The Public Prosecutor or the Assistant Public Prosecutor in charge of the case has to consult the Superintendent of Police or the District Collector and the District Magistrate, as the case may be before seeking permission of the Court for withdrawal of prosecution of any person;

F. The Provision of section 321 Cr.P.C. and the principles governing the same as laid down in binding judicial precedents shall be kept in view by the Public Prosecutor or the Assistant Public Prosecutor in advising withdrawal or withdrawing from the prosecution of any person.

3. However, the prosecutor is a minister of Justice and shall not act as a subordinate to the above authorities.

Direction of Supreme Court of India regarding withdrawal of Prosecutions. (Criminal Appeal No.1587 of 2014, Dt.31-7-2014 in Bairam Muralidhar Vs State of Andhra Pradesh regarding withdrawal of Prosecution. Arising Out of S.L.P (Crl) 1487 of 2012)

Arising out of Criminal Petition No.1125 of 2010 of High Court of AP dt.8-12-2011:

1. The central question is whether the public prosecutor has really applied his mind to all the relevant materials on record and satisfied himself that the withdrawal from the prosecution would subserve the cause of public interest or not.
2. It is obligatory on the part of the Court to satisfy itself that from the material it can reasonably be held that the withdrawal of the prosecution would serve the public interest.
3. A Court while giving consent under Section 321 of the Code is required to exercise its judicial discretion, and judicial discretion, as settled in law, is not to be exercised in a mechanical manner. The Court cannot give such consent on a mere asking.
4. It requires exercise of careful and concerned discretion because certain crimes are against the State and the society as a collective demands justice to be done. That maintains the law and order situation in the society.
5. The public prosecutor cannot act like the post office on behalf of the State Government.
6. He is required to act in good faith, peruse the materials on record and form an independent opinion that the withdrawal of the case would really sub serve the public interest at large.

7. An order of the Government on the public prosecutor in this regard is not binding. He cannot remain oblivious to his lawful obligations under the Code.
8. He is required to constantly remember his duty to the Court as well as his duty to the collective.
9. The application must indicate perusal of the materials by stating what are the materials he has perused, may be in brief, and whether such withdrawal of the prosecution would serve public interest and how he has formed his independent opinion.

Corruption :

In another case on corruption, the Supreme Court commented... "Corruption corrodes the moral fabric of the society and corruption by public servants not only leads to corruption of the moral fabric of the society but is also harmful to the national economy and national interest as persons in high places can cause considerable damage to the national economy, national interest and image of the country.

On Corruption the Supreme Court in Crl.Appeal No.1587/2014, dt.31-7-2014 (arising out of AP Crl.Pet. No.1125/2010 dt.8.12.2011) commented that 'Corruption is an enemy' of nation and tracking down corrupt public servant, howsoever, high he may be, and punishing such person is a necessary mandate under P.C Act 1988. The status or position of public servant does not qualify such public servant from exemption from equal treatment. The decision making power does not segregate corrupt officers into two classes as they are common crime-doers and have to be tracked down by the some process of inquiry and investigation. Corrupt public servants are corrupters of public power. Quoting annulment of Sec 6 A of prevention of Corruption Act 1988, the Apex court said that the corrupt public servants whether high or low are birds of same feather and must be confronted with the process of investigation and inquiring equally. (Hon'ble Justices Deepak Mishra and Pinaki Chandra ghose dt.31-7-2014)

Ms Selvi Vs State of Karnataka in Crl. Appeal No.1267 of 2004 AIR 2010 SC 1974 : (2010) of Sec 263 dt.5-5-2010 the Supreme Court commenting on DDT (Deception Detection Techniques) declared brain-mapping, lie-detector tests and Narco-Analysis are unconstitutional violative of Article 20 (3). These tests can be conducted only by obtaining consent of the individual. The test cannot be conducted forcefully.

Procedure for filing appeals against acquittals and revision petitions in the High Court

584-1. SP/CP and Addl. DGP, CID in respect of cases filed by the CID, should send proposals for filing appeals against acquittals and revision petition within a month from the date of judgement direct to the Public Prosecutor, High Court of Andhra Pradesh, marking a copy to the District Magistrate, the Zonal Inspector-General/DIGP, DGP and to the Government. The Public Prosecutor, High Court of Andhra Pradesh should examine the proposals and furnish his opinion to the Government leaving a clear month for the Government to issue necessary orders. Papers relating to appeals or revisions should at all times be treated as very urgent.

2. In important cases and cases not instituted by the police, the proposals should be sent to the Public Prosecutor, High Court of Andhra Pradesh, through the Head of the Department concerned within a month of the date of Judgment, marking a copy to the District Magistrate and the Government. The District Magistrate should send his remarks on the proposals direct to the Government with a copy to the Public Prosecutor, High Court of Andhra Pradesh. In sending proposals, the following instructions should also be noted.

A. Two copies of the Calendar and Judgment of the Court or Courts should be sent. The judgment copies need not be on stamp paper. The calendar and judgments should be typed on thick white paper in double spacing with wide margin and shall contain the names of all the accused. The other correspondence should be separately typed.

B. Where the calendars and judgments of two courts have to be sent, each should be typed separately leaving enough space on the top for affixing the court fee stamps. Each copy should be certified and signed at the end as true copy. In all cases of capital charges, i.e., section 302, IPC, etc., three certified true copies of the judgments certified by departmental officers or printed copies should be sent along with the proposals.

Criminal Appeals - High Court - Better Representation

585-1. Copies of notices in all criminal appeals are sent by the High Court to Superintendent of Police/CP. They should, in consultation with the Public Prosecutor, decide whether the deputation of a Police Officer is necessary. Intimation to the High Court should be sent if an additional set of records is required. In criminal revision cases, notices are sent by the Public Prosecutor to the District Magistrate, who in some cases, forwards them to the Superintendent of Police/ Commissioner of Police. Ordinarily, in revision cases, deputation of an Officer may not be necessary.

2. Date of Hearing :

A. Criminal appeals and referred trials to be heard before a Bench on a Monday will be posted in the rough list on the previous Tuesday, when intimations will be sent to the Superintendent of Police, in cases where they have asked for such intimation, and only after receipt of such intimation from the Public Prosecutor, an Officer to be deputed to proceed to High Court of AP to brief him.

B. Criminal revision cases are ordinarily posted before a single Judge and the approximate date of hearing in such cases is known seven days before the hearing.

C. Sometimes, Officers come up on the date given in the notice issued by the High Court, but this date is only a formal one and no case ordinarily comes up for hearing on the date given in the notice.

3. A. In criminal appeals, revision petitions and bail applications coming before the High Court, the Public Prosecutor or the Additional Public Prosecutor, as the case may be, should obtain instructions from the concerned Superintendent of Police, marking copies of such correspondence to the District Magistrate and Zonal IG/DIGP to keep them in the know of things, and in respect of cases of Visakhapatnam / Vijayawada from the respective Commissioners of Police and from the Addl. DGP, CID in respect of their cases.

B. As per Sec. 372 Cr.PC Criminal Appeal can be preferred by the victim / complainant. Even in such cases, the local Police should extend all help.

4. In cases in which the High Court has released an accused person on bail without notice to the Public Prosecutor and there are adequate grounds for moving for cancellation of the bail, the High Court may be moved in the matter. Public Prosecutor and / or the Director of Prosecutions may be consulted in all matters of importance.

A. In every appeal to the High Court which is of importance and in which the record is voluminous a Police Officer, with detailed personal knowledge of the case, should be sent to brief the Public Prosecutor High Court of AP. It is especially desirable that he should be fully briefed in appeals against convictions, in important cases based on circumstantial evidence.

B. Immediately on deciding to depute a Police Officer to brief the Public Prosecutor in cases of criminal appeals and referred trials, the Superintendent of Police should see that printed records are obtained direct from the Registrar of High Court and that the Police Officer is deputed to meet the Public Prosecutor with the printed records.

C. The date of hearing of a Government case in the High Court, especially in its early stages should be communicated in time to the head of the

department concerned by the Law Officer in-charge of the case so that the Head of the Department may depute a departmental officer to instruct the law officer suitably. These orders apply to civil and criminal cases in the High Court.

The Supreme Court of India has defined the role and function of a public prosecutor in *Shiv Nadan Paswan vs. State of Bihar & Others (AIR 1983 SC 1994)* as under:

a. The Prosecution of an offender is the duty of the executive carried out through the institution of the Public prosecutor.

b. Discretion to withdraw from prosecution is that of the Public Prosecutor and that of none else including the Government, and he cannot surrender this discretion to anyone.

c. The Public Prosecutor may withdraw from prosecution not only on the ground of paucity of evidence but also on other relevant grounds in order to further the broad ends of public justice, public order and peace.

The following attributes to be possessed by an ideal public prosecutor.

i. An ideal prosecutor must consider himself as an agent of justice.

ii. There should not be on part of a prosecutor a seemly eagerness for, or grasping at a conviction.

iii. A Public prosecutor should not by statement aggravate the case against the accused, or keep back a witness because his evidence may weaken the case for prosecution.

iv. A Public Prosecutor should place before the Court whatever evidence is in his possession.

v. The duty of the Public prosecutor is to represent the State and not the Police.

vi. A Public Prosecutor should discharge his duties fairly and fearlessly and with full sense or responsibility that attaches to his position.

vii. The Prosecutor cannot act in a manner as if he is defending the accused or promoting the interest in complainant.

The main reasons for dismal performance of prosecutions are :

A. Poor quality of entrants in the prosecution agency and absence of proper institutional training. There should be an independent training institute for the Prosecutors of all cadres.

B. Library facility has to be provided to the prosecutors, at all levels. Establishment of Directorate of Prosecution did not bring the desired independence to the institution of prosecution.

C. There is deficiency in supervision and co-ordination of criminal trial process. Thus, so far as trials are concerned, the concerned Police officers shall be made accountable to the prosecution.

D. Timely filling vacancies and allotting such number of cases to a public prosecutor depending on the nature of the case is the urgent need so that efficiency of public prosecutor will improve.

E. A scientific study has to be conducted by the experts in this regard and every prosecutor shall be provided with such number of cases to be handled so that he can make study of cases promptly and present the case efficiently before the court. This will definitely enhance the capacity of the prosecutor.

585-5. Court Monitoring System for Police District set up:

This model is suitable for a police district setup. In this scenario a centralized CMS Control Room has to be established at District Head Quarters/SP Office. The CMS Sub Control Rooms are established at different locations where courts are located and are connected through VPN Network. The CMS Sub Control Rooms has to be established near the courts and Police Stations which come under the jurisdiction of that particular court. The necessary infrastructure and Hardware has to be installed in the CMS Sub Control Room. The data will be entered locally and synchronization process will be done from the local client and updated to the central Database automatically. Those at Head Quarters who have permission can log into the system and view data and reports of the CMS.

NOTE: Requires WAN / VPN network connectivity with firewalls between Police stations and CMS Control Room for Data sharing.

Fair trial - The Hearing

1. Equal access to, and equality before the Courts.
2. The right to a fair hearing (Sec.207/208 Cr.PC)
3. The right to a public hearing (Sec.327 Cr.PC r/w 37 POCSO Act, including in camera trial .
4. The right to a competent, independent and impartial tribunal established by law?
5. The right to a presumption of innocence (Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. - Article 14(2) ICCPR)
6. The right to prompt notice of the nature and cause of criminal charges (Sec.207, 208, 228, 240 Cr.PC)
7. The right to adequate time and facilities for the preparation of defence (Sec.243, 247 Cr.PC)

8. The right to a trial without undue delay (Sec.309 Cr.PC) speedy disposal is the "*sine qua non*" of all proceedings in a Court of law
9. The right to defend oneself in person or through a legal counsel (Sec.303/304 Cr.PC)
10. The right to examine witnesses.
11. The right to interpretation (Sec.279 Cr.PC)
12. The prohibition of self - incrimination.
13. The prohibition of double jeopardy (Sec.300 Cr.PC r/w Sec.40 Evidence Act) "*nemo debet bis vexari* "- a man must not be put in peril for the same offence twice.
    See section 300(3) Cr.PC - consequences of an offence causing defferent offence (Ex. 337 IPC Convicted later 304A IPC)
    (The prohibition of '*ne bis in idem*' or of double jeopardy is aimed at preventing a person from being tried - and punished for the same offence twice.)

Item	Description	Qty.
Servers	High end servers to handle the data at CMS Control Room.	2
Desktops	Work Stations enter case proceeding information of summons, warrants	4
Printers	Printer to take print out of Day wise list of P.T. Cases, Court proceedings and case diary.	2
Scanners	Scanner photos and other documents related to the cases	2
CSM Modem	Sending SMS Alerts regarding Remand extensions and Charge sheet filing	1
Servers OS	Windows 2008	2
OS for Work Stations	Windows XP with SP 3 and above	6
Database	Windows SQL Server 2005 and above	2

Man power requirements at CMS Control Rooms

Designation	Number	Total
S.I	1	1
System Admin	1	1
Data entry Operator	3 persons for shift	9
A.S.I	1 person for each court	1 x no. of courts
Court Constable	1 person for each court	1 x no. of courts
Court Constable	2 persons for CMS	2

585-6 Principles of Jurisprudence :

1. "*salus populi est suprema lex*" welfare of the people is the Supreme Law"
2. "*Autrefois convict , Autrefois acquit*" Person once convicted or acquitted not to be tried for the same offence (Sec. 300 Cr. PC).
3. *" Nemo debet bis vexari*" A man must not be put twice in peril for the same offence (Art. 20 (2) of the constitution).
4. Previous Judgment relevant to bar second suit or trial (Sec. 40 of Evidence Act)
5. Since Telugu language is the Court Language (u/s 272 Cr. PC) vide G.O.Ms. No. 485 of Home (Courts-B) Dept., Dt: 29.03.1974, the Police Officers have to use Telugu in lower Courts including Charge Sheets.
6. " *Ignorancia Juris neminem non execusat*' 'Ignorance of law is no excuse'
7. In *State of Gujarat vs Kishan Bai* (07.01.2014 Cvil Appeal 1485/ 2008) the Supreme Court has directed all the State Governments to take action against erring Investigating & Prosecuting Officers responsible for failure of prosecution on account of sheer negligence or culpable lapses, must suffer departmental action.

585-7 Important Apex Court Judgments

(i) Liability of Prosecutor and Investigating Officer :

In *State of Gujarat Vs Kishanbai* in Criminal appeal 1485 of 2008 dated : 7th January, 2014, the Hon'ble Supreme Court said that……. "every acquittal should be understood as a failure of Justice delivery system, in serving the cause of justice. Every State should put in place a procedural mechanism to review all acquittals and each erring officer must suffer the consequences of his lapse by appropriate departmental

action, whenever called for. Both the Investigating Officer and the prosecutor are accountable".

(ii) Guidelines of Supreme Court for returning recovered property to owners u/s 451 Cr.PC.

In *Sunderbai Ambalal Desai Vs State of Gujarat (2002) 10 SCC. 283, AIR 2003 SC 638,* the Supreme Court ordered that… "The powers under Sec.451 Cr.PC should be exercised expeditiously and Judiciously. It would serve various purposes namely :

1. Owner of the article would not suffer because of its being unused or by its misappropriation
2. Court or the police would not be required to keep the article in safe custody.
3. If the proper panchanama before handing over possession of article is prepared, that can be used in evidence instead of its production before the Court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail and .
4. This jurisdiction of the Court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles".

(iii) Granting Bails / Acceptance of sureties in Human trafficking and ITP Act cases :

Freedom Firm Vs Commissioner of Police, Pune in Crl. Public Interest litigation No. 4 of 2015 of Bombay High Court, dated: 30.10.2015 .

The Bombay High Court directed all Judicial Officers of Maharastra and the Prosecuting officers to prevent misuse of bail provisions by offenders involved in Human Trafficking and Immoral Traffic Act Offenders and imposed stringent conditions regarding eliciting correct address, securing verified documents like Aadhar card, ration card, voter ID card, passport including furnishing passport size photograph, duly verified by Police Department. Certain conditions like automatic cancelation of bail to the absconding traffickers, on being arrested, not to be released on bail, till completion of trial , not to grant bail to those who do not have fixed abode etc.

(iv) Sentencing Policy - Courts to hear loud cry for Justice :

State of Karnataka Vs Krishnappa 2000 (Crl. Law Journal 1793 (SC): ACR 2000 SC 1470.

Socio-economic Status, religion, race, caste or creed of the accused or victim are irrelevant considerations in Sentencing Policy. Protection

of Societies and deterring the criminal is the avowed object of law and that is required to be achieved by imposing appropriate sentence. The sentence to commensurate with the gravity of the offence. The Court must hear the loud cry for justice by the society in cases of heinous crime of rape.

(v) **No remission of Sentence** to those accused who are found guilty of crime against women and children (Crl. Appeal No. 1227 of 2002 dt: 29.07.2003 in Sanboina Satyanarayana Vs Govt. of A.P.)

585-8 : Lalitha Kumari Vs State of UP (WP (Crl) No.68/2008 SCC 559)

The constitutional Bench of the Hon'ble Supreme Court of India gave the following directions for strict compliance which are reproduced care under.

(i) Registration of FIR is mandatory under section 154 of the Criminal Procedure Code, if the information discloses commission of cognizable offence and no preliminary inquiry is permissible in such situation.

(ii) If the information received does not disclose the commission of a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

(iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In the cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forth with and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

(iv) The Police Officer cannot avoid his duty of registering offence, if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR, if information received by him discloses a cognizable offence.

(v) The Scope of Preliminary inquiry is not to verify the veracity of otherwise of the information received but only ascertain whether the information reveals any cognizable offence.

(vi) As to what type of and which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are under:

(a) Matrimonial disputes/ family disputes

(b) Commercial offences.

(c) Medical negligence cases

(d) Corruption cases.

(e) Cases where there are abnormal delay/laces in initiating Criminal prosecution, for example, over 3 months delay in reporting the matter

without satisfactorily explaining the reasons for delay. The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

(vii) While ensuring and protecting the rights of the accused and the complaint, a preliminary inquiry should be made time bound and in any case it should not exceed seven days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

(viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a Police Station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be mentioned above.

585-9 : Arnesh Kumar Vs State of Bihar

(i) The Supreme Court in Criminal Appeal No.1277 of 2014 in *Arnesh Kumar Vs State of Bihar* dt.02-07-2014 has directed all the State Governments to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure what the court had observed above, the Supreme Court gave the following direction:

1. All the State Governments to instruct it's police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.PC;
2. All police officers be provided with a check list containing specified sub- clauses under Section 41(1)(b)(ii);
3. The police officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
4. The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;
5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;
6. Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case,

which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.
8. Authorizing detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.
9. The Supreme Court hasten to add that the directions aforesaid shall not only apply to the cases under Section 498-A I.P.C. or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.

(ii) "RAJIV GANDHI ASSASSINATION CASE – JUDGMENT OF SUPREME COURT"

W.P (CRL) NO.48 OF 2014

UNION OF INDIA Vs V.SRIHARAN @ MURUGAN & OTHERS Dt.2.12.2015

The Hon'ble Supreme Court Constitutional Bench has categorically said that the State Govt. do not have power to remit sentences in cases which were investigated and charged by CBI or other Central Govt. Agencies as per Sec.435 Cr.PC without consultation of the Central Govt.

The Supreme Court further said that life imprisonment as laid down in Nathuram Godsey's Case means imprisonment till the end of one's life and that by very nature the sentence is indeterminable and the Supreme Court said that it would not be open to the Court to make any Special Category of sentence in substitution of death penalty and to put the category beyond application of that remission nor it would be permissible to stipulate any mandatory period of actual imprisonment inconsistent with the one prescribed under Section 433 A of Cr.PC.

585-10 : LIST OF OTHER JUDGMENTS

Sl. No.	Judgment	Number
Trafficking in Persons		
1.	Vishal Jeet vs. Union of India Highlights : a) Asked Governments to set up advisory committees to make suggestions for the eradication of child prostitution. b) Asked the central government to evolve schemes to ensure proper care and protection to the victim girls and children.	Crl. WP No. 421 of 1989, dt.2.5.90
2.	Prerana versus State of Maharashtra and other Highlights : a) Children rescued from brothels should be treated as "Children in need of care and protection" under the Juvenile Justice (Care and protection of Children) Act, 2000 b) A lawyer representing the victims is barred from representing the acused c) Drew parallels between the Immoral (Traffic) Prevention Act and the Juvenile Justice (Care and protection of Children) Act, 2000	Crl. WP No. 788 of 2002, dt.7.10.02

2A.	Bails is not typically appropriate for perpetrators accused of trafficking and sexual offenses.	Pandit and another, 1993 Cri LJ 2025 (Delhi), Supreme Court of India, involving allegations of rape.
2B.	Bail should not be granted to a brothel owner if the brothel is not closed. The offence is prone to repetition since the Applicant is shown to be a brothel owner and accordingly carries on the business of running a brothel, in which, inter alia, a child was detained. Despite the specific provision under Section 18 of the ITP Act, the learned APP states, upon instructions, that the prosecution has not taken any steps for closure of the brothel or for eviction of the offenders from the brothel premises. In fact, the Applicant's Advocate also stated to Court that the brothel has not been sealed, as required under Section 18 of the ITP Act. The same offence, albeit for violations upon other persons, including children, is liable to be committed if the Applicant is released, since she is the owner of the brothel which has not even been closed /sealed.	Cri LJ 2755 (Bombay) (rejecting bail application of female brothel owner convicted for trafficking a minor) of Mumbai High Court. Geetha Kancha Tamamng Vs State of Maharastra, 2010. Respondent: State of Maharashtra
2C.	Grant of bail should take into consideration the gravity of the trafficking offence. Considering the facts and circumstances of the case and submission made by learned Counsel for the applicants and learned Advocate General and considering the nature of allegations which shows that the applicants are involved in a sex racket adversely affecting the society, it is a social offence affecting the society at large, its gravity is too much and without expressing any opinion on the merits of the case, the applicants are not entitled to be released on bail. The prayer for bail is refused.	Shalini Aswathi and Anr V.State of U.P 2008 (3) ACR 3302 (Allahabad) manu/UP/1998/2008 (rejecting bail application of persons accused of violations of ITPA sections 3/5/6 and other sex offences)
2D.	Even if the owner of the alleged brothel has been released on bail, the manager of the brothel need not be granted bail, if circumstances are different. "Admittedly, at the time of the raid the said females were found confined into a room which was locked and was under the control of the Applicant who was the Manager of the said lodge and in a situation like this, his case could not be compared either with the case of the room boy or the owner of the Lodge.	Shri Ramesh Shetty, S/o Suresh V.State (Decided on 8 July 2008 by Bombay High Court at Goa) MANU /MH/1691/2008 (rejecting bail application of brothel manager)
2D.	Statements by victims of alleged sexual assault do not require corroboration. In the Indian setting, refusal to act on the testimony of a victim of sexual assault in the absence of corroboration as a rule, is adding insult to injury. Why should the evidence of the girl or the woman who complains of rape or sexual molestation be viewed with the aid of spectacles fitted with lenses tinged with doubt, disbelief or suspicion ?	Appellants: Bharwada Bhoginbhai Hirjibhai Vs. Respondent: State of Gujarat Criminal Appeal No. 68 of 1977 Decided on: 24.05.1983

Sexual Assault & Rape		
3.	Delhi Domestic Working Women's Forum vs. Union of India (UOI) and Ors., Writ Petition Highlight a) Laid down parameters under which a case of rape has to be tried by taking into consideration the plight of the victims during and after the trial b) For the first time recognised the need for legal representation for the victim. c) Laid down parameters about the treatment of the victims in Police station. d) Made it mandatory for the victim to get the help of a social worker. e) Made it mandatory to maintain the anonymity of the victim's identity	W.P (Crl) No.362 of 1993, dt.19-10-94 of Supreme Court of India
4.	State of Punjab vs. Gurmit Singh and others Highlight a) Established that in camera trials are mandatory in rape cases b) Recognised that a delay in filing the FIR is not fatal to the case of the prosecution, given the social context	Crl. Appeal No.6/6 of 1985 Dt.16-1-96 of Supreme Court of India
5.	Balwant Singh and ors. Vs State of Punjab Highlight Held that the mere absence of an injury does not prove that no resistance was offered by the rape victim	Orl. A Nos.131 and 273 of 1978, dt.10-2-87 of Supreme Court of India
6.	State of Andhra Pradesh Vs. Gangula Satya Murthy Highlight Recommended courts to focus on the broader probabilities of a rape case and not be swayed by minor contradictions or insignificant discrepancies	Orl. Appeal No.455 of 1996, dt.19-11-96 of Supreme Court of India
	Courts should show great responsibility when trying an accused on a rape charge and deal with such cases with the utmost sensitivity. The Courts should focus on the broader probabilities of a case and not be swayed by minor contradictions or insignificant discrepancies. This is heightened by the fact that violence against women and rape is on the increase. Finally, evidence must be dealt with in the totality of the background of the entire case and not in isolation.	
7.	P.Rathinam vs. Union of India (UOI) and ors. Writ Petition Highlight Expanded the concept of compensation to be made available even when the trial is going on	WP (Crl) No.381 of 1988, dt.28-10-1988 of Supreme Court of India
	The principle of compensation was applied and extended in this case. However, the important aspect is that the Court held that the compensation would be payable even when the trial is pending. The Supreme Court granted interim compensation to the victim while the trial was still pending. The Court held that the victim could apply for more compensation if required.	

Sexual harassment at workplace		
8.	Vishaka and others vs. State of Rajasthan and others Highlights : a) Acknowledged sexual harassment at workplace as a violation of a right. b) Defined sexual harassment at the workplace c) Established a set of guidelines for ensuring a safe work environment for women d) Made it mandatory for the employer to take responsibility in cases of sexual harassment	(1997) 6 SCC.241 dt :13-08-1997 of Supreme Court. Presently in Sec.354 A IPC all the factors are incorporated as punishable offence.
9.	Apparel Export Promotion Council vs. A.K.Chopra Highlight Established that sexual harassment may not necessarily involve physical contact	CA Nos. 226&227 of 1999 (Out of SLP (C) Nos. 15099-15100 of 1997 dt.20-01-1999
In-Camera Trial		
10.	Sakshi Vs. Union of India and ors Highlight a) Expanded the circumstances where in-camera trials should be used. b) Established procedures that would help child victims to testify at ease in court	W.P (Crl) No.33 of 1997 with SLD No.(Crl) 1672 to 1673/2000, dt.26/5/04, of Supreme Court of India.
Child Victims		
11.	Sheba Abidi Vs State of Delhi and another Highlight Established that child victims can testify outside the court environment • Child victims are entitled to get a support person during trial	WP (Crl) No.356 of 2003, dt. 28-7-04 of Supreme Court of India.
Female Foeticide		
12.	CEHAT and Ors Vs.Union of India (UOI) and ors (India) Highlights : a) Was instrumental in bringing into focus the issue of female foeticide and also direct the Government to make amendments in the law b) Monitored the problems relating to foeticide and law enforcement against it in the country.	WP (Crl) No.356 of 2003, dt. 28-7-04 of Supreme Court of India.
Dowry Death		
13.	Hem Chand versus State of Haryana Highlight Interpreted the circumstances where section 304 B, IPC can be admissible, to include suicide.	Crl. Appeal No.690 of 1994, (Arising out of S.L.P (Cri) No.2846 of 1991), dtd. 06.10.1994 of Supreme Court of India.

Death of a woman under unnatural circumstances		
14.	Pawan Kumar and other versus State of Haryana Highlights Interpreted the circumstances where section 304 B IPC can be admissible, to include that place of residence at the time of suicide may not be relevant for punishment under Section 304B IPC	Crl. Appeal No.604 of 1991, dt.09/02/1998 of Supreme Court of India
Dowry Death		
15.	Dr.G.M.Natrajan versus State and others Highlights : Emphasised that in the case of harassment and death of a women under unnatural circumstances, the burden of proof is on the accused, and not on the prosecution.	Cri. R.C Nos 502 and Cri R.P.No.494 of 1992, dt.22/02/1995 of Supreme Court of India
No remission of sentence in CAW		
16.	Sanaboina Satyanaryana Vs Govt. of Andhra Pradesh and ors Highlights Established that those charged with crime against women and children should not be eligible for a remission of sentence.	Crl. Appeal No.1227 of 2002, dt.29/7/2003 of Supreme Court of India.
Gang Rape		
17.	Shimbu and Babu Ram vs State of Haryana (Crl.Appeal Nos.1278-1279 of 2013- SLP (Crl) No. 1011/2012) of Supreme Court of India Highlights : a) Gang rape of 16 years victim in Haryana dt.28/12/95 (5 AM) A1-Shimbu & A2-Babu Ram kidnapped her and kept her on 28th & 29th and raped her repeatedly b) On 30/12/95 reported in PS Narnaul Chaudhary vide Cr.No.195/95 u/s 376 (1) (g), 366, 342, 363, 506 r/w 34 IPC c) Addl. Sessions Judge Narnaul convicted A1 & A2 for 10 years RI. (dt.31-3-98). d) Punjab and Haryana High Court on appeal by the accused, confirmed the order but reduced the sentence. e) S.C says nature, gravity, manner and circumstances of offences, character, antecedent and personality of accused decide sentencing policy. f) "Sentence to commensurate with crime committed" (Kamal Kishore Vs State of HP (2000) 4 SC 502, on 3 Judge Supreme Court Bench ordered that the incident occurring 10 yrs ago and the accused and victim have settled in life is no special reason for reducing the statutory minimum sentence). g) Rape is a heinous crime, a crime against society, a crime against human dignity, one that reduces man to an animal. To view such an offence (once it is proved) lightly is itself an affront to society. Subordinate Courts discretion by itself does not justify its exercise. The long pendency of the criminal trial or the offer of the rapists to marry the victim are not relevant reasons. Nor is the age of offender by itself and adequate reason.	

	h) The Punjab High Court's justification that they reduced the sentence as the accused respondent was "unsophisticated and illiterate citizen belonging to a weaker section of the society", that he was "a chronic addict to drinking" and had committed rape on the girl while in State of "intoxication" and that his family comprising of "and old mother, wife and children" were dependent upon him. These factors in our opinion did not justify recourse to the proviso to Sec 376 (2) (G) IPC to impose a sentence less than the prescribed minimum. i) Supreme Court said that Courts must hear the loud cry for Justice by the society in cases of heinous crimes of rape on innocent helpless girls of tender years as in this case and respond by imposition of appropriate sentence by the Court. j) The show of mercy in this case of a heinous crime would be travesty of Justice and the plea for reduction of sentence by High Courts exhibits stark insensitivity to the need for proportionate punishments to be imposed sustained by the trial Court orders of imprisonment under gang rape.	
PW Domestic Violence Act		
18.	Indra Sarma Vs VKV Sarma Highlights : Live-in or marriage like relationship is neither a crime nor a sin though socially unacceptable in our country. The decision to marry or not to marry or to have a heterosexual relationship is intensely personal. Question : Whether a "live-in relationship" would amount to a relationship in the nature of a marriage falling within the definition of 'domestic relationship' u/s 2(f) of the PWDV Act inspite of 14 years live-in relationship	Crl. appeal. No.2009 of 2013 of Supreme Court of India. Live-in relationship Does not amount a marriage relationship
Arrest of persons		
19.	Arnesh Kumar vs State of Bihar Highlights : a) "While arresting Police to maintain a balance between Individual liberty and societal order". b) It would be the prudent and wise for a Police officer that no arrest is made without a reasonable satisfaction reached after some investigation as to the genuineness of the allegation.	Crl.appeal.No.1277 of 2014 (SLP (Crl) No.9127/2013) dt.2/7/2014 of Supreme Court of India.
20.	Lalita Kumari Vs. Govt. of UP and others. Compulsory registration of F.I.R in all cognizable cases. Preliminary enquiry by Police officer permitted in the five type of cases : a. Matrimonial/family disputes b. Commercial offences c. Medical negligence cases d. Corrupt cases e. Cases where there is abnormal delay/latches in initiating Crl. Prosecution (For ex : over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.) The I.O within a week has to take a decision to register or otherwise in these cases.	WP (Crl) No.68/2008 SCALE 559 of Supreme Court of India.

Risk of Tampering with Evidence		
21.	"Court should consider the position and the status of the accused with reference to the victim and the witnesses If the accused is strong/powerful he can tamper with the evidence	Appellants : Gurcharan Singh and Ors. Vs. Respondent: State (Delhi Administration) Criminal Appeal Nos. 456 and 457 of 1977 Decided on: 06.12.1977
22.	If the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused.	State of UP V. Amarmani Tripathi, AIR 2005 SC 3490 of Supreme Court of India
Accused Claiming Sickness filing Bail Application		
23.	Not all illness is grounds for bail. It is only justified in cases in which incarceration puts the accused at serious risk because sufficient treatments is not available in jail. So far as the ailment of Respondent No. 2 is concerned, it is not of such a nature as to require him to be released on bail. Respondent No. 2 can always apply to the Jail authorities to see that he gets the required treatment. It is pertinent to note that in the Review Petition it has not been stated that the applicant still needs medical treatment. It is not stated that he has not received proper medical treatment from the Jail authorities.	Pawan vs. Ramprakesh Pandey, A.I.R 2002 S.C.2224
24.	If the release of an accused on medical ground is likely to have an adverse affect on investigation, the accused cannot be released on the ground of his ill-health unless the Court also takes the view that treatment of the accused is impossible if he is kept in detention.	Appellants : National Investigation Agency Vs. Respondent:Redaul Hussain Khan Crl. Appeal No. 25 of 2010 Decided on : 28.05.2010
25.	Admission into a hospital for treatment, by itself, does not entitle an accused to bail. Mere admission of an accused to a hospital for medical treatment does not entitle an accused to obtain bail under the proviso to Section 437(1) Code of Criminal Procedure.	Appellants: Mahendra Manilal Shah and etc. Vs. Respondent:Rashmikant Mansukhlal Shah and Anr Criminal Application Nos. 2446 and 2447 of 2009 Decided on:19.06.2009
26.	Bails is discretionary for female accused but should not be granted solely based on this criteria but rather consideration in light of the circumstances and gravity of the offence. It was held that the bail is at the most a matter of procedural privilege and not an accrued right until it is granted. Consequently, it was held that the accused would not be entitled to bail merely being a woman on account of proviso to Section 437(4) of the Criminal Procedure Code. It was further held that the cause of public justice also has to be zealously guarded compared to the rights of a criminal defendant. Interest of society and also cause of public justice has also to be kept in mind while granting or refusing bail.	Appellants: Meenu Dewan Vs. Respondent:State Bail Appl. No. 736/2008 Decided on:13.01.2009

Bail when accused is pregnant		
27.	An application for bail on the grounds that the accused is pregnant should be considered in light of the facilities in jail. Before sending a woman who is pregnant to a jail, the concerned authorities mast ensure that jail in question has the basic minimum facilities for child delivery as well as for providing prenatal and post-natal care for care for both, the mother and the child."	Appellants: R.D. Upadhyay Vs. Respondent: State of A.P. and Ors. Decided on: 13.04.2006
Bail as plea of the only earning member		
28.	The Supreme Court has rejected the sole breadwinner argument as the reason for granting bail to an accused.The only reason assigned for grant of bail is that he is the only bread earner of the family. In the light of decisions of this Court, this contention of the appellant does not impress us to release him on bail for the alleged offence for which he had been convicted by the Courts. Therefore, in our view, for the present he is not entitled to the relief sought in the application.	Appellants: Bakshish Ram and Anr. Vs. Respondent: State of Punjab Criminal Appeal No. 969 of 2009 (Arising out of SLP (Crl.) No. 7544 of 2008) Decided on:08.05.2009
Matter of Successive bail Applications		
29.	When the accused has applied for successive bail application, he must show there is a change in circumstances that is significant since his last rejection of bail. It is true that successive bail applications are permissible under the changed circumstances. But without the change in the circumstances the second application would be deemed to be seeking review of the earlier judgment which is not permissible under criminal law….. "Once that application was rejected there was no question of granting a similar prayer. That is virtually overruling the earlier decision without there being & change in the fact-situation. And when we speak of change, we mean a substantial one which has a direct impact on the earlier decision and not merely cosmetic changes which are of little or no consequence.	State of Madhya Pradesh v. Kajad, AIR 2001 SC 3317 of Supreme Court of India State of Maharashtra vs. Captain Buddikota Subba Rao AIR 1989 SC.2292.

Books Referred :

1. Forensic Science for Police Officers published by APPA, edited by Dr. KPC Gandhi.
2. Forensic Medicine published by APPA, edited by Dr. GR Bhaskar & Dr. PE Prabhakar.
3. Justice through Science, published by APFSL.

4. Forensic Science Hand book Vol. I – III by Richard Saferstein., Printice Hall, INC., New Jersey, 1988.
5. Forensic Science in Criminal Investigation and Trials by B. R. Sharma, Third Edition, Universal Law Publishing Co. Pvt. Ltd., 1999.
6. Criminalistics And Scientific Investigation, by Frederick Cunliffe & Peter B. Piazza Prentice-Hall, Inc., Englewood Cliffs, N.J., 1980.
7. Homicide Investigation by Lemoyne Snyder. Charles C Thomas Publisher USA 1977.
8. An Introduction to Criminalistics, by Charles E. O'Hara & James W. Osterburg., The Macmillan Company, New York., 1949.
9. Techniques of Crime Scene Investigation, by Barry A.J. Fisher., Sixth edition, CRC Press, USA., 2000.
10. Practical Homicide Investigation, Tactics, Procedures, and Forensic Techniques, by Vernon J. Geberth., CRC Press, USA., 1996.

Journals :

1. Central Bureau of Investigation Bulletin, Published by CBI, New Delhi.
2. Bureau of Police Research & Development Journal, Published by Ministry of Home Affairs, Government of India, New Delhi.
3. Journal of Forensic Sciences, Published by American Academy of Forensic Sciences, U.S.A.
4. Indian Journal of Forensic Sciences, Published by Forensic Science Society of India.
5. Science & Justice, Published by Journal of the Forensic Science Society, U.K.
6. The Criminologists, Published by Barry Rose Law Periodicals and Contributors. West Sussex, U.K.